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INSTITUTES
OF
MORAL PHILOSOPHY.

BY
ADAM FERGUSON, LL. D.
PROFESSOR OF MORAL PHILOSOPHY IN THE UNIVERSITY
OF EDINBURGH.

A NEW EDITION,
ENLARGED.



BASIL:

Printed and sold by JAMES DECKER.
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1800.

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INSTITUTES OF MORAL PHILOSOPHY.

INTRODUCTION.

SECTION I.

*Of Knowledge in general*¹.

ALL knowledge is either that of particular facts, or that of general rules.

The knowledge of facts is prior to that of rules; and is the first requisite in the practice of arts, and in the conduct of affairs.

A general rule is the expression of what is common, or is required to be common, in a number of particular cases.

General rules are the result of observation, or will; and consequently are derived from mind.

¹ Bacon's novum organum.

Practice, or conduct of any sort, though regulated by general rules, has a continual reference to particulars.

In speculation, we endeavour to establish general rules.

In practice, we study particular cases, or apply general rules to regulate our conduct.

S E C T. II.

Of the Objects of Study.

TH ESE are, History, Science, and Art.

History is the knowledge of particulars in detail.

Science is the knowledge of general rules, and their applications.

Art is the application of knowledge to practice.

Any general rule, expressing what is fact, or what is right, is termed *a law of nature*.

A general rule, when applied to explain or regulate particulars, is termed *a principle*; and explanations or injunctions from principle, are termed *theory* or *system*. The particulars to be explained are termed *phenomena*.

Method in science is of two kinds; analytic, and synthetic.

Analytic method, is that by which we proceed from observation of fact, or right, in particular cases, to establish general rules.

Synthetic method, is that by which we proceed from general rules to their particular applications.

The first is the method of investigation.

The second of communication, or of the enlargement of science.

Argument is of two kinds:

A priori, and *a posteriori*.

By an argument *a priori* the fact is proved from the law.

By an argument *a posteriori*, the law is proved from the fact.

SECT. III.

Of the laws of Nature.

Most subjects in nature may be considered under two aspects.

1. In respect to the fact, or to their actual state.

2. In respect to the excellence of which they are susceptible.

Any general expression of the fact, or of the excellence required, may be termed, a *Law of Nature*.

The laws of nature are either physical or moral.

A physical law is the general expression of a fact, uniform to a certain extent, in nature.

A moral law is a general expression of the excellence required in any subject; more particularly, of the rectitude required in human affairs.

Physical laws state what is uniform, more especially in the operations of nature.

In every operation, men are disposed to apprehend an operating power or cause.

Causes are of two kinds:

Efficient, and final.

The efficient cause, is the energy or power producing an effect.

Although the nature of this energy is not known in any case whatever, yet in every operation we consider that as the cause which precedes or attends the operation, and to which the effect is always proportional.

The final cause, is the end or purpose for which an effect is produced.

In supposing final causes, we suppose the existence of mind.

Physical science is the knowledge and application of physical laws, or of efficient causes, to explain and account for appearances.

Moral science is the knowledge of what is right and proper in the actions and characters of men.

A physical law exists so far only as it is the fact.

A moral law exists in being obligatory.

The subjects from which physical laws are collected, may be classed under four principal heads :

Mechanism, vegetation, animal life, and intelligence.

It has not hitherto been made appear, although sometimes attempted, that these operations can be comprehended under the same physical laws.

The phenomena of vegetation are not comprehended under any known law of mechanism, much less those of animal life or intelligence.

The subjects of moral science are, any matters of choice, together with the nature and actions of free and voluntary agents.

The immediate use of physical laws, is theory.

The immediate uses of moral law, are choice, practice, and conduct.

S E C T. IV.

Of Theory.

PHYSICAL science consists in theory.

Theory consists in referring particular operations to the principles, or general laws, under which they are comprehended; or in referring particular effects to the causes from which they proceed.

To investigate or to point out any general rule or law of nature, in which any particular fact is comprehended, is to account for that fact.

Thus Sir Isaac Newton accounted for the planetary revolutions, by showing that they were comprehended in the laws of motion and gravitation.

To pretend to explain phenomena, by showing that they may be comprehended in a supposition or hypothesis, or by applying to them metaphorically, the language proper to any other subject, is illusory in science.

Thus the vortex of Descartes, being a mere supposition, could not explain the planetary motions; and the terms, *idea*, *image*, or *picture*

of things, being terms merely metaphorical, cannot explain human knowledge or thought.

All phenomena, though not comprehended under any known law, are proper materials of natural history.

All facts that cannot be explained by any rule previously known, or better known than the facts themselves, may be termed *ultimate facts*.

It is evident, that all theory must rest on ultimate facts.

To require explanation or proof *a priore* for every fact, were to suppose that human knowledge requires an infinite series; which is impossible.

SECT. V.

Causes that have retarded the progress of Science.

1. **T**HE necessary avocations of human life.
2. The love of system, and impatience of delay, in the study of particulars.
3. Emulation of speculative men, and desire to supplant each other as founders of sects.
4. Prejudice, national or personal.

5. The difficulty of penetrating appearances, to discover what operations are like, what different.

6. Affectation of acuteness, or novelty in contesting the evidence of ultimate facts.

7. Vain desire of accounting for ultimate facts.

The principal errors of human reason are, on the one hand, a rash assent, without proper evidence, and, on the other, indiscriminate scepticism, or the despair of knowledge.

S E C T. VI.

Maxims of Reason, to be followed in speculation, as well as in common life.

EVERY inquiry proceeds upon a supposition that some measure of knowledge is attainable in the subject to which the inquiry refers. If we despair of knowledge, we shall cease to inquire.

The evidence of reality is various and unequal in different instances; but, in the universe, is sufficient to open our view into the order of Nature, and, in matters of importance to human life, is sufficient to decide our conduct.

All evidence may be referred to four titles, Conscioufness, Perception, Testimony, and Inference.

1. It is the first maxim of reason, that nothing is to be admitted without that degree of evidence with which it should be attended, if true, and that, with this degree of evidence, nothing is to be rejected.

2. That nothing be assigned as a law of nature, until it be known as a fact in nature.

In general, it is safer to direct our early studies to the investigation of the laws of nature, than to the assignment of causes. In the latter, we are more apt to acquiesce in partial representations, hypotheses, or unconsidered appearances.

3. That facts, uniform as far as our knowledge of the subject extends, be deemed universal laws of nature respecting such subject.

4. That partial laws be not extended beyond the conditions and limitations under which they are known to take place.

5. That like phenomena be referred to the same laws.

6. That no proof or explanation be required of ultimate facts.

S E C T. VII.

Of Moral Philosophy.

ALTHOUGH Moral Philosophy is not the knowledge of *what is*, but rather of *what ought to be*; yet, before we can ascertain rules of morality fitted to any particular nature, the fact relating to that nature should be known.

Before we can ascertain rules of morality for mankind, the history of man's nature, his dispositions, his specific enjoyments and sufferings, his condition and future prospects, should be known.

From a proper collection of such materials, we should be able to ascertain what is best for mankind, and to assign to every particular in human life its comparative value, and real place in the estimate of human affairs.

This, however, is not to be done without a fair enumeration of the articles which men are disposed to think of importance.

Pneumatics, therefore, or the physical science of mind, so far as it is to be collected from human nature, is the foundation of moral philosophy.

S E C T. VIII.

Of Pneumatics.

PNEUMATICS treat physically of mind or spirit.

This science consists of two parts.

The first treats of man; the second, of God.

That part which treats of man, may contain the history of man's nature, and an explanation or theory of the principal phenomena of human life.

That which treats of God, contains the proofs of his existence, attributes, and government.

As the observation of particulars in every subject, ought to precede the attempt to establish general rules, the history of man's nature is the foundation of every science relating to him.

This history consists of facts, of which some occur on a general view of the species; others occur to the individual, in recollecting what passes in his own mind.

The first may be termed, *the history of the species*; the second, that of *the individual*.

In the theory of human nature are solved questions relating to the characters of men, to the nature and future prospects of the human soul.

INSTITUTES
OF
MORAL PHILOSOPHY.

PART I.

THE NATURAL HISTORY OF MAN ²,

CHAP. I.

HISTORY OF THE SPECIES.

SECT. I.

General arrangement.

THE history of the human species contains the following articles:

1. The form and aspect of man.
2. His residence, and manner of subsistence.
3. The varieties of his race.
4. The period of his life.
5. His disposition to society.

² See Buffon's Natural History.

6. Population, or the generations and numbers of mankind.

7. Varieties of choice and pursuit.

8. Arts and commerce.

9. Disparities of rank and estimation.

10. Political establishments.

11. Language and literature.

S E C T. II.

Of the form and aspect of Man.

THE human form is erect, furnished with articulations and muscles fitted to retain this posture, and to move it with ease and safety.

The hand and the arm of man is an instrument and a weapon, not a prop or support to his body.

His form and posture are well fitted to observation, to the use of reason, and to the practice of arts.

His aspect is expressive of his thoughts, sentiments, and intentions. It is calm or agitated; mild or fierce; languid or ardent; doubtful or decided; timid or intrepid.

His natural expressions consist of actions, gestures, smiles, frowns, tears, looks, together

with changes of color; and exhibit, on the whole, a variety, and a grace, which either do not take place, or are not observed in other animals.

He is naked and unarmed; but, by his invention, qualified to supply these defects.

The final cause appears to be, that his talent for invention should be employed.

SECT. III.

Man's residence, and manner of subsistence.

OTHER animals have their ranges on the earth, beyond which they do not willingly stray, or beyond which they are not qualified to subsist.

Some subsist only in the hot climates, others in the cold or the temperate; but man resides equally in every climate, and can subsist on great varieties of food, both animal and vegetable.

He either accommodates himself to the inconveniencies of his situation, or learns to surmount them.

S E C T. IV.

Varities of the human race.

U^ND^ER the general form and aspect of mankind, there are considerable varieties of the race.

Men being dispersed over the face of the earth, receive the influences of climate, situation, and soil.

The animal and rational temperament, is comparatively phlegmatic and dull in cold climates; is more ardent and quick in warm climates; but has always possessed a distinguished superiority in the temperate.

Apart from these distinctions, the diversities of race are marked by a difference of stature, features, and complexion.

Mankind may be referred to six different races.

The *European*, the *Samoeide*, the *Tartar*, the *Hindoo*, the *Negro*, and the *American*³.

³ Buffon of the varieties of the human race.

S E C T. V.

Period of human life.

EVERY species of animal is preserved by succession.

The death of one generation is as much a part in the order of nature, as the birth and succession of another.

In the human species, according to some observations, half the numbers that are born die before the seventeenth, the seventh, or even the third year of their age is expired.

Long life⁴, in all climates, consists of between seventy and a hundred years.

It appears from the annual register of deaths where the numbers of people are known, that about one in thirty dies each year:

That, of twenty-seven or twenty-eight, one is born:

That about a fourth of the whole number are males between eighteen and fifty-six, able to carry arms.

⁴ Buffon's Natural History. Halley's Tables. Lowthorp's Abridgment of the Philosophical Transactions, vol. 3. p. 669.

S E C T. VI.

Disposition of Man to society^s.

ANIMALS have been distinguished into two classes; the solitary, and the social.

Animals of prey, for the most part, are solitary.

Other animals are, for the most part, associating.

The associating may be farther subdivided into two kinds:

1. Those which assemble in flocks or herds, merely for company or safety:

2. Those who unite their labors for some common purpose, and distribute the burdens of the community according to some rule of instinct or of reason.

The latter are associating and political. Man, though an animal of prey, and, from necessity or sport, addicted to hunting or war, is, nevertheless, in the highest degree, associating and political.

Societies may be referred to four general classes. Families, companies, nations, and empires.

^s Essay on the History of Civil Society, part 1. sect. 3.

Families are united by affection; companies by the desire of society; nations by the desire of security; and empires by force.

Men, by their confederacy, as well as by their artifice, are enabled to subdue every other species of animal, to subsist by their spoils, and to employ the strength of other animals, though superior to their own.

Separate societies are, for the most part, rivals or enemies ⁶.

S E C T. VII.

Of Population ⁷.

MEN exist in greater numbers than any other species of the larger animals.

In some cases they are found to increase, in others to decrease in their numbers.

The quick or slow increase of animals, in general, depends on the physical laws of propagation, on the security, and the means of subsistence the species enjoys.

⁶ Essay on the History of Civil Society, part 1. sect. 4.

⁷ Ibid. part 3. sect. 4. Wallace's Numbers of Mankind. Hume's Populousness of ancient nations.

The first relate to the age at which the parent becomes prolific; to the time that elapses in pregnancy; to the frequency of breeding; to the numbers of each brood; and to the period during which the parent continues prolific.

The laws of propagation determine the numbers that may spring from any single pair, and the numbers of generations that may subsist together.

These laws, in every species of animals, are, in favorable circumstances, sufficient to its increase.

Men, in every secure situation, people up to their resources; and the aid of government is required, not to improve on the laws of propagation, but to bestow security and plenty.

Animals of prey have most difficulty in procuring their food.

Animals which are made a prey are least secure.

The security and subsistence of men are most impaired by their own mutual hostilities and oppressions.

The laws of propagation, as well as the means of subsistence, are supposed most favorable to population in the warmer climates. To this it is imputed that nations in those climates are populous, even under great defects of government.

S E C T. VIII.

Varieties of choice and pursuit.

MEN have not, like the other animals, a fixed and determinate choice of external objects and pursuits.

Nations are frequently, by the difference of their manners and customs, mutual objects of wonder and censure, of contempt and aversion.

Even of two men placed in the same or like circumstances, one acquiesces, or is pleased; the other complains.

They differ in respect to the means which they employ for the attainment of the same, or of similar ends.

S E C T. IX.

Arts and Commerce^s.

THE materials which men are concerned to provide may be referred to five general titles, the means of *safety, subsistence, accommodation, and ornament.*

^s Harris on Coins.

These considerations lead to the practice of many arts, which are more or less successful in proportion as they are multiplied, separated, and complete.

They also suggest the advantages of property and wealth.

The consideration of safety leads to the invention of arms, and places of retreat.

The earliest weapons appear to have been the club, the sling, and the bow: To these succeeded, in process of time, the spear and the sword, joined to the buckler or shield;

Fire-arms, cannon, and then musketry.

The desire of retreats has given rise to the art of fortification.

The art of war, in every age, must be accommodated to the species of arms, engines, and methods of fortification in use.

The arts which men practise for subsistence are, fishing, hunting, pasturage, and agriculture.

Nations that know least of the means of subsistence, not finding enough in the spontaneous growth of the earth, have recourse to hunting and fishing.

In the result of these arts, the hunting-ground, the lake, the river, or the bay, may be appropriated to the society; but the game is seldom appropriated to the individual.

Nations that have observed the method and the advantage of breeding herds, betake themselves to pasturage.

They, at first, generally migrate, or wander with their herds.

The individual acquires an immediate property in cattle, but not in land.

Nations that are acquainted with the use of herbs, fruits, and grain, which do not grow spontaneously, or do not grow in sufficient quantities, betake themselves to agriculture.

The culture of land, to a certain degree, may precede property, as it did among the ancient Germans⁹, and among the nations of North America.

Agriculture, where the object is the temporary produce of land, is compatible with migration: Where the object is the improvement of soil, and perpetual fertility, agriculture requires settlement, and the property of land.

As the property of land excites to invention in agriculture, it likewise excites to invention in other arts.

⁹ Vide Cæsar, lib. 4. cap. 1.; and lib. 6. cap. 22. Charlevoix's History of Canada.

They who have no land, betake themselves to manufacture, that they may have wherewith to buy the produce of land.

By manufacture, men are furnished with the means of accommodation and ornament.

The means of accommodation are, clothes, houses, furniture, utensils, equipage.

Men, in different ages, are unequally furnished with these articles; they even subsist without them; but, in the ruder climates, under such inconveniencies, as diminish the numbers of the species, or prevent their increase.

The means of decoration are such things as please the fancy, without being necessary or useful.

Men, in all ages, are fond of decoration; they combine ornament with the means of subsistence and accommodation; but they may subsist, and enjoy every conveniency, without regard to ornament.

Ornaments are principally made of rare materials; as gems, precious metals, &c.

Riches consist in the abundance of things that conduce to safety, subsistence, accommodation, and ornament.

Riches are the result of arts and industry.

Whatever ingenuity men exert in the practice of arts, their success will depend on a proper distribution of their employments, and on their making a separate business of each.

In making this distribution, the parties trust that they may be able to exchange what they have to spare for what they want.

The progress of arts, as well as the casual distribution of commodities, depending on situation, climate, and soil, render commerce expedient, or even necessary.

Commerce, in the simplest form, consists of barter, without any standard of valuation, or medium of exchange: Each party gives what he has to spare of one kind, for what he wants of another.

To extend trade, money, communication, and the interposition of merchants, are required.

The first money, or medium of exchange, was generally some staple commodity, as corn, cattle, &c.

These were things of uncertain value, of inconvenient bulk, perishing or expensive in the keeping, and not easily divided, without making a change of value.

To avoid these several inconveniencies, the precious metals have been admitted in every trading nation as the medium of exchange.

They are, for the greater conveniency, employed in the form of coin.

The pound, or other ascertained weight or quantity of the precious metals, was employed as the standard of valuation.

The coin of all nations has undergone considerable changes, both in respect to fineness and weight.

The present standard for silver in England is 11 oz. 2 dw. fine, to 18 dw. allay.

For gold, 22 carats fine, to 2 carats allay.

The pound of standard silver is cut into 62 shillings.

That of gold, into $42\frac{1}{2}$ guineas.

The pound of silver was originally cut into 20 shillings: Hence 20 shillings are still the nominal pound in money.

In the reign of Edward VI. the standard of silver was greatly debased, and the coin greatly diminished. The standard consisted of three parts of fine to nine of allay; and the pound of this debased metal was cut into 72 shillings.

The standard and weight of the coin have, since the reign of Elizabeth, remained the same.

Operations on the coin embarrass trade, by perplexing transactions, and by alarming the interest of debtors and creditors.

If, in debasing coin, the interest of the creditor is not guarded, he must be defrauded.

In raising the value of the coin, the debtor would be defrauded.

Most operations on coin have been of the former kind.

The use of coin, and actual payments in money, are not necessary in every commercial transaction.

In the transfer of great sums, even the precious metals would be cumbersome and inconvenient.

To avoid this inconvenience, the practice of circulating bills has been adopted.

This practice is founded in credit, and tends to extend it.

Commerce employs a number of separate professions; the manufacturer, the factor, the carrier, the merchant, the retailer.

The price of commodities in trade is as their scarcity combined with their demand.

Articles, in the production of which, labor time, and skill, are required, continue to multiply, while the price is sufficient to maintain the laborer during the time he is employed, to reimburse his apprenticeship, and other expenses, and to furnish an adequate reward.

When the price falls below this measure, the manufacture is discontinued, until the scarcity brings up the price.

S E C T. X.

Disparity and Rank.

MEN are diversified, in respect to their personal qualities and conditions.

The distinction of personal qualities arises from unequal strength and capacity, unequal knowledge, resolution, and courage, unlike dispositions of benevolence or malice.

These differences constitute either relations of dependence and power, or comparative degrees of estimation.

The strong, the knowing, the brave, are powerful; the weak, the ignorant, the fearful, are dependent.

The benevolent are beloved; the malicious are detested.

The knowing, the generous, and the brave, are esteemed; the ignorant, the ungenerous, and the cowardly, are contemned: and all the qualities of human nature being referred to

the predicaments of excellence and defect, one man is held to be more, another less worthy.

Men differ in their predilection of qualities considered as the constituents of excellence.

They prefer qualities the most necessary in their own situations, and the most eminent in their own way.

In dangerous situations, and in warlike ages, they chiefly admire valor.

In learned societies, they admire knowledge and ingenuity.

In trading nations, they admire industry, punctuality, and fair dealing.

But there being some circumstances common in the situation and disposition of all mankind, such as, their being united in society, and concerned in what relates to their fellow-creatures; men universally admire qualities which constitute or procure the good of mankind; as, wisdom, justice, courage, and temperance.

Such qualities are generally comprehended under the title of *Virtue*;

Opposite qualities, under the title of *Vice*.

The external conditions of men are sometimes confounded with personal qualities, and appear to have the same effects.

The rich are powerful, the poor are dependent.

Riches and birth, even equipage and dress, are admired. The reverse of these exposes to contempt or neglect.

Disparities are found in every state of society; they are greatest where riches, power, and education, are most unequally distributed.

S E C T. XI.

Of Political Establishments ¹⁰.

WHERE men associate from affection and choice, and with little sense of private or of separate interest, they have been known to subsist without rule or political establishment.

Even where they associate from a sense of expediency or necessity, they follow, without rule, the suggestion of every particular occasion.

But in maintaining an union which has arisen from casual coalitions, or force, societies have been obliged to adopt, and to submit to, government.

¹⁰ L'Esprit des Loix, liv. 2. Essay on the History of Civil Society, part 1. sect. 10. Ibid. part 3. sect. 2.

Where the coalition was casual, or forced, individuals felt separate interests, and wished for rules to adjust their pretensions.

Some suffered themselves to be governed, and others pretended to government, on the footing of casual dependency and superiority.

The abuses of casual subordination have led men to think of positive institutions.

Positive institutions have confirmed, altered, or restrained, the powers which arise from casual subordination.

All the political institutions of men may be reduced to two general classes:

The simple, and the mixed.

Under the simple institutions, the supreme power is committed to a single person, or to a single assembly or body of men.

In mixed institutions, the supreme authority is exercised by a plurality of collateral powers.

Simple institutions are, democracy, aristocracy, monarchy, and despotism.

Democracy is the supreme power of the collective body.

This institution is calculated to correct, or to remove, the effects of adventitious dependency and subordination, and to reconcile equality with order.

Aristocracy is the supreme power of a particular rank or class of men.

This class of men has, in some cases, been elective; in others, hereditary.

The institution itself, though calculated to confirm the superiority of one rank, and the dependence of the other, may, notwithstanding, preserve equality among the members of each class.

Monarchy is the supreme power of a single person, who, placed at the head of many subordinate dignities, has an authority defined by laws.

This institution is calculated to confirm adventitious dependency and subordination.

Extensive and perpetual military arrangements have led to monarchical subordination.

Despotism is the supreme power of a single person, assumed and maintained by force, on the ruin of every other pretension to rank.

Despotism has arisen from conquest, or military usurpation.

Mixed institutions are, either mixed republics, or mixed monarchies.

In mixed republics, the supreme power has been shared betwixt the collective body, and a senate or convention of nobles.

In

In mixed monarchies, the supreme power has been shared betwixt a king and nobles, or betwixt a king, nobles, and people.

S E C T. XII.

Language and Literature.

LANGUAGE, in the most general sense, comprehends all the external signs of thought, sentiment, or will.

Signs are, either original, or conventional ^{II}.

Original signs are such as men are led by instinct to employ, and to interpret.

Such are, tones of the voice, change of features, and gestures.

Conventional signs are such as men have agreed upon, or rendered customary.

Conventional signs may be ranged under the three following heads.

1. Mute signs.

2. Speech.

3. Written characters.

Where men are restrained from the use of speech, or are defective in the organs of hearing, or of pronunciation, they have recourse to mute signs, and thereby attain, in a considerable degree, the purposes of language.

^{II} See Reid's Inquiry into the human mind,

Nations employ unequal measures of action, and of mute signs, together with speech.

Speech is universal to mankind, and peculiar to the human species.

Every separate nation, or tribe, for the most part, has had a separate language, or different dialect.

The theory of speech, whether universal or particular, is the science of grammar¹².

Written characters are the signs of words, or of articulate sounds.

They are either verbal, or alphabetical.

Verbal characters are the signs of entire words.

Alphabetical characters the signs of elementary sounds, or modulations; which being combined, constitute words.

Writing preserves the memory of past transactions, of observation, and experience. It preserves literary productions, and tends to improve and to extend the use of speech.

Literary productions may be referred to three principal titles, *History*, *Poetry*, and *Science*.

The first and third treat of realities.

The second extends to invention or fiction.

Men have excelled in poetry, while they were yet rude in history or science.

¹² See Harris's *Hermes*.

CHAP. II.

HISTORY OF THE INDIVIDUAL.

SECT. I.

General Arrangement.

THE history of the individual contains the following articles.

1. Consciousness.
2. Animal sense and perception.
3. Observation.
4. Memory.
5. Imagination.
6. Abstraction.
7. Reasoning.
8. Foresight.
9. Propensity.
10. Sentiment.
11. Desire.
12. Volition.

These articles may be ranged under the denominations of powers, dispositions, and habits.

The first eight articles are commonly referred to the understanding; the remainder to the will.

Habit is incident to all living natures, and has something analogous even in the inanimate system of things.

S E C T. II.

Of Consciousness.

THE mind is conscious of itself, as acting or suffering, in all its operations and feelings.

It is conscious of the laws of thought or reason, which are termed the *metaphysical* or *geometrical axioms*.

These axioms are the conditions on which all thought proceeds, and which need not be expressed, but for the sake of order or method.

S E C T. III.

*Animal Sense and Perception*¹³.

SENSATION is obtained by means of corporeal organs; and is, for the most part, attended by an original or acquired perception of some external cause of the sensation, or object of the perception.

The organs of sense are commonly reduced to five heads:

Touch, Taste, Smell, Hearing, and Seeing.

T O U C H.

The whole animal frame is in some degree an organ of touch.

The sensations of touch, or feeling, are either pleasant, painful, or indifferent.

The interior or subcutaneous parts are sensible only to the pains which arise from hurts or disorders.

The final cause appears to be, that, in their ordinary and sound state, they should require no attention; but, in case of disorders, that they should give the alarm.

¹³ See Reid's Inquiry into the human mind.

On the exterior surface of the body, harmless sensations are indifferent; but whatever hurts is painful.

Indifferent sensations are the indications of the mere contact of innocent bodies.

Painful sensations are indications of hurts or wounds.

Pleasant sensations are the sign of relief from what hurts or wounds; as of moderate warmth succeeding to great cold, or the converse.

Many indifferent sensations in particular parts of the body, as in the hands, the tongue, &c. are indications of the intimate properties, and nice distinctions of bodies; as of their figure, polish, hardness, softness, as well as comparative heat or cold.

The perceptions of this sense are, in some instances, original; in others acquired.

The figure, hardness, softness, heat, and cold of bodies, are matter of original perception.

Many of their salutary or pernicious qualities are learned by experience, and are matter of acquired perception.

In some cases we perceive the nature, as well as the existence of qualities; as of figure, hardness, softness.

In others, we perceive the existence of the quality, but not its nature; as of heat and cold.

The first have been termed *primary*, the other *secondary qualities of bodies*.

The sensations by means of which we perceive primary qualities, are, for the most part, indifferent, and have no name.

The sensations by which we perceive secondary qualities are, for the most part, either pleasant or painful; are considered apart from the perception they bring; and frequently usurp the name of the quality perceived, so as to occasion a considerable ambiguity in language. Thus heat or cold, which are the names of certain unknown properties in bodies, are sometimes understood of animal sensation or feeling.

The animal sensation can, in no case, have any resemblance to the subject or quality perceived.

Its informations, therefore, are not like that we receive from the inspection of a picture or image; but like that we receive by means of language, or other arbitrary signs.

In original perception, the sign is affixed by nature, and the interpretation instinctive.

Our sensations are not fitted to furnish us with the means of investigation, and of proof, but with perceptions which precede all investigation or proof.

The sceptic, who affects to disbelieve the informations of sense, has the same perception with the dogmatist, who professes to believe.

T A S T E.

The organ of taste is placed in the tongue and palate.

Its sensations are, for the most part, either agreeable or disagreeable.

The qualities of bodies perceived by it are secondary, as already explained ¹⁴.

The sensations of taste become, after some experience, the indications or signs of what is pernicious or salutary in food, &c.

But the same subject is frequently known by sensations, which differ greatly in respect to pleasure or pain.

The sensation is sometimes pleasant, at other times painful or indifferent, while the same object is still perceived.

Thus, under the influence of appetite, the taste of food is pleasant; when the appetite is cloyed, the taste is disgusting or painful; but the same species of food is still perceived.

The taste is likewise oft-times indifferent, or is not, in any considerable degree, either

¹⁴ See p. 39.

pleasant or painful; yet in all those cases the object is perceived, and its qualities nicely distinguished.

S M E L L.

The organ of smell is placed within the nostrils, near to the passage of the air in respiration.

There is a greater analogy between the sensations of smell and taste, than between those of any other two of our senses.

They agree in giving a perception of secondary qualities; in enabling us, by the help of experience, to distinguish external subjects, and to recognise the same subject by the *media* of sensations that vary from pleasant to painful or indifferent.

H E A R I N G.

The organ of hearing is placed in the interior part of the ear.

The sensations of sound, whether single or multiplied, and variously combined, are either pleasant, painful or indifferent.

The quality perceived is secondary, sound, by investigation, to be pulses of the air,

occasioned by explosions, or by the tremors of tense and elastic matter of any sort.

Sounds are diversified by their intensity and musical tone.

Tones being a natural expression of sentiment, are, by certain combinations, easily rendered pathetic.

Different sounds are, by experience, learned to be the signs or indications of different subjects, and of different movements.

S I G H T.

The organ of sight is placed in the eye.

Its sensations are sometimes pleasant or painful, but, for the most part, indifferent.

Of the qualities perceived by means of these sensations, some are primary, others secondary.

The original perception obtained by sight, is that of the visible appearance of things external. This appearance includes superficial extension and figure, apparent magnitude, color, illumination, and shade.

The acquired perception is that of the real dimensions, figures, and distances of bodies.

In the use of this organ, there is a series of signs and interpretations.

1. The visible appearance is perceived by means of light.

2. Objects are perceived by the intervention of this appearance.

The same object is perceived under great varieties in the visible appearance.

The solid dimensions of bodies are understood from the disposition of light and shade on the visible surface.

The distances of known bodies are inferred from their apparent magnitude and distinctness.

The real magnitudes of bodies at a known distance, are inferred from their apparent magnitudes.

This discernment of objects from their visible appearance, is the result of observation. Where we have no measure of the distance of bodies, we cannot, from their apparent magnitude, ascertain their real magnitude; or, where we have no measure of the real magnitudes of bodies, we cannot, from their apparent magnitudes, ascertain their distance.

The perceptions of sense are communicated to others by information or testimony.

S E C T. I V.

Observation.

OBSERVATION is the attention specially paid to things remarkable.

Things become remarkable by their reference to ourselves, or by their comparifon, fimilitude, or contrast with each other.

Collections of obfervations, or of facts, conftitute history, either descriptive or narrative.

Descriptive history is the detail of co-exiftent circumftances and qualities.

Narrative history is the detail of fucceffive events.

S E C T. V.

Memory.

MEMORY is the recollection of fubjects paff.

It is cafual or intentional.

It is cafual, when fubjects or thoughts, by any connexion of their own, recur to the mind.

It is intentional, when the mind, from defign, recalls any fubject or thought.

S E C T. VI.

Imagination.

IMAGINATION is the stating of objects as invested with all their qualities and circumstances, real or fictitious.

Imagination is exerted in matters which we know or believe to be real, as well as in matters which we invent or believe to be fictitious.

It includes, therefore, all the conceptions in which we endeavour to specify or particularize our subject; and in this is distinguished from abstraction, in which we endeavour to generalize.

The history of our conceptions is, perhaps, the most important article in the history of the human mind.

We acquire a habit of conceiving together qualities or circumstances which are presented together.

Qualities uniformly or generally presented together in nature, form our conception of natural subjects, and are the realities on which we proceed in our conduct.

Occasional coincidences are sometimes conceived as natural and established combinations.

Combinations of fancy, report, or vulgar representation, occupy our conception in the same manner.

Objects imagined may be described, may excite sentiment and passion, and lead our desires and aversions.

Hence imagination is the chief faculty employed in description, invention, and persuasion, and in stating the objects of our choice and pursuit.

Different nations, ages, and men, act under the influence of different imaginations or conceptions.

Such imaginations, when fortified by habit, do not give way to reason or conviction, and must be supplanted by other habits.

Objects are imagined separately or jointly. In the separate images of things, are considered their real or possible qualities and circumstances.

In their joint images are considered their similitude, analogy, or opposition.

Similitude consists in the likeness of parts. Analogy consists in the similarity of relation, and proportion of parts.

Opposition consists in the contrariety of qualities, and proportions or relations.

Similitude leads to arrangement, and the classing of objects together.

Analogy leads to the rhetorical figures of simile, metaphor, and allegory.

Opposition leads to distinctions, antitheses, and contrast.

S E C T. VII.

Of Abstraction.

ABSTRACTION is the stating of qualities and circumstances apart from subjects, qualities, or circumstances, to which they are actually joined in nature.

Thus, in arithmetic and geometry, number and quantity are stated apart from things to be numbered or measured.

In abstract terms, qualities are stated apart from their subjects.

In mechanics, motion is stated apart from resistance or friction.

In generic names, qualities in which individuals agree are stated apart from those in which they differ.

Abstraction is, in a great measure, arbitrary; hence the various methods of classification followed in natural history.

Abstraction is the reverse of imagination: It is the foundation of general and comprehensive reasoning, not of description or passion.

Men are sometimes the dupes of their own abstractions, and consider them as separate and independent existences.

Abstraction tends to disqualify men for affairs. It is the habit of considering circumstances apart; while, in affairs, all circumstances come together, and must be kept in view at once.

S E C T. VIII.

Of Reasoning.

REASONING comprehends classification of particular subjects, investigation, and application of general rules, together with demonstration, the application of evidence.

In classification, we refer particulars to certain predicaments, fixed or arbitrary.

In investigation, we observe what is common in the operations of nature, or inquire what would be right in the actions of men.

In the application of rules, we show the particulars which are comprehended under them.

In

In this science consists.

In demonstration, or the use of evidence, we employ testimony or argument.

Argument is taken either *a priore*, or *a posteriore*.

Argument *a priore*, proves or disproves the fact from the law, or the effect from the cause.

Every argument of this sort may be reduced to a perfect syllogism, consisting of three propositions: Of which one announces the law, either negative or positive; another compares the law with the fact to be proved; and the third affirms or denies the fact, from its conformity with, or opposition to the law.

Argument *a posteriore*, proves or disproves the rule, from the enumeration of particulars.

Every such argument may be reduced to a syllogism, consisting of two propositions: One is induction, or enumeration of facts; the other affirms or denies the law, from the concurrence, or want of concurrence in the particulars brought to establish it.

S E C T. IX.

Of Foresight.

FORESIGHT is the faculty of conjecturing what is to follow from the past or present.

It requires penetration and sagacity: The first, to comprehend all the circumstances of the case in question; the second, to perceive what is likely to follow from those circumstances.

Penetration and sagacity are the foundations of good conduct, art, and skill.

S E C T. X.

Of Propensity.

MEN, like the other animals, are active, from original choice and propensity.

They delight in freedom and exercise; they pine under restraint, or in the absence of objects fit to excite them.

The activity of man's nature consists in propensity, sentiment, desire, and volition.

Propensities have their effect prior to the experience of pleasure or pain.

They are either animal or rational.

The animal propensities are, the appetites to food, sleep, and the propagation of the species.

These appetites are periodical or occasional, and are intermitted when their ends are obtained.

The rational propensities lead to self-preservation, to the care of our children, to the union of the sexes, to society, and to prefer what is excellent.

These, like animal appetites, give a direction to human nature prior to any experience of their gratifications.

But, contrary to the analogy of animal appetites and gratifications, they may continue to occupy habitually, without satiety or disgust.

All affections of kindness are, in their own nature, pleasant.

All emotions of hatred are painful.

Having these natural propensities, we state objects under the predicaments of good or of evil, as they are supposed conducive or opposite to the purposes of our propensities.

Whatever is thought conducive to preservation, is reckoned good.

Whatever is thought pernicious, is reckoned evil.

Whatever promotes the welfare of society, or of any object beloved, is therefore supposed good.

What is pernicious, is supposed evil.

Whatever is thought, in itself, to constitute a perfection or excellence, is supposed good.

Whatever is thought to constitute imperfection, or to sink our comparative value, is supposed evil.

Hence the great influence of opinion on the external pursuits of men.

S E C T. XI.

*Of Sentiment*¹⁵.

SENTIMENT is a state of mind relative to supposed good or evil.

Sentiments are pleasant or painful.

The sentiment arising from a supposed good attained, is pleasant; from a supposed good missed or forfeited, is painful.

¹⁵ See Theory of agreeable sentiments.

A supposed evil avoided, is pleasant; incurred, is painful.

The pleasure, in both these cases, is termed *Joy*.

The pain is termed *Sorrow*, or *Grief*.

A supposed good, in expectation of being gained, is pleasant; in expectation of being lost, is painful.

The pleasure, in either of these two cases, is termed *Hope*.

The pain is termed *Fear*.

Thus all our sentiments or passions may be referred to four general heads:

Joy, Grief, Hope, and Fear.

But there is a great variety in the sentiments of joy and grief, of hope and fear, corresponding to the nature of the supposed good or evil, and of the propensity by which we are directed towards it.

The sentiments of those who are occupied chiefly in their own preservation, are, the sense of safety and success, or of danger and disappointment.

The first may comprehend security, exultation, and insolence; the second, jealousy, terror, and despair.

The most painful sentiments of those who are occupied chiefly by their regard to mankind, are alleviated by the pleasures of affection, confidence, and good-will.

The sentiments of those who are occupied chiefly with the consideration of excellencies or defects in themselves, or in others, are, on the one hand, respecting themselves, and their own absolute perfections or defects, self-approbation, and elevation of mind; on the other hand, shame, remorse, and dejection.

In respect to comparative advantages, and superiority to other men, their sentiments are, exultation, vainglory, insolence, and contempt.

The sentiments of men respecting real excellencies in others are, esteem, respect, and veneration.

Esteem is a sentiment of approbation tending to confidence.

Respect is a sentiment of approbation tending to submission.

Veneration is a high degree of respect.

The sentiments of men respecting defects are, contempt, ridicule, indignation, and rage.

Contempt is a sentiment of disapprobation, tending to indifference or neglect.

Ridicule is a sentiment of disapprobation, mixed with mirth or pleasantry.

Satire and Raillery consist in exposing what is ridiculous.

Buffoonery consists in assuming it.

As the sentiment of disapprobation predominates, ridicule approaches to scorn.

As the sentiment of pleasantry predominates, it approaches to mirth, and may even be mixed with tenderness.

The scornful are rarely susceptible of admiration or love.

Indignation is a sentiment of disapprobation, mixed with resentment.

Rage is a sentiment of disapprobation, mixed with hatred.

The sentiments of men respecting comparative advantages in others, differ according as they are disposed to love or hate, and according as they state the comparison, whether with themselves or with other men.

The superiority of those they love, compared to themselves, produces deference and respect.

The superiority of those they hate, so compared, excites envy; of those who are

indifferent, excites humiliation, or is a mortification.

The superiority to those they love, compared to others, excites exultation; of those they hate, compared to others, excites animosity and regret.

Languages may be conceived to vie with one another in the power of expressing these varieties of emotion and sentiment.

S E C T. XII.

Desire and Aversion.

DESIRE and aversion arise from our conception of objects, founded in experience, fancy, or report.

Men's desires and aversions are various, as their opinions or conceptions of things.

In proportion as the conception becomes habitual, the desire or aversion becomes so also.

Certain conceptions of pleasure, profit, preferment, and worth, produce sensuality, avarice, emulation, and greatness of mind.

These desires, though, in some instances, they carry us far beyond the scope of our

original propensities, have a foundation in some natural propensity, and lead to the objects which, in our opinion, tend to fulfil its purpose.

Sensuality is founded in animal appetites, and implies a purpose of enjoyment, even during the intermissions of appetite.

Avarice is founded in the care of self-preservation; but limits it to the desire of riches, or the means of subsistence.

Emulation is founded in ambition, and is the desire of superiority, supposed to consist in preferments and honors.

Greatness of mind is founded in ambition, limited to personal qualities and real perfections.

What we habitually desire, we also state as our interest, in judging of our concern in any matter of choice.

SECT. XIII.

Of Volition.

VOLITION is the act of will in free determinations.

The determination is free wherever it is voluntary.

The motives from which we chuse, do not destroy our freedom; for, to act from motives in the manner we ourselves approve of, to be willing, voluntary, and free, in any action, are synonymous terms.

We are responsible for the part we chuse to act.

INSTITUTES
OF
MORAL PHILOSOPHY.

PART. II.
THEORY OF MIND.

CHAP. I.
General observations.

THEORIES of mind, no less than theories of matter, proceed upon the knowledge of physical laws, applicable to explain appearances.

It is admitted, that the intellectual system, as well as the material, hath its laws; but it is apprehended that the laws of the intellectual system are not equally well observed ¹.

¹ Spirit of laws, book 1.

This apprehension comes from our not considering the distinction of laws, as well as of subjects.

The term *law* is ambiguous.

It sometimes signifies the uniformity of a fact in nature.

In this sense it is employed in theories of the material system².

And in this sense chiefly the material system is said to have its laws.

In this sense every law must be strictly observed; because it is law only so far as it is observed. Gravitation is a law only so far as bodies actually gravitate.

But in this sense, too, the intellectual system hath its laws; for, in the operations of mind, some facts are uniform.

In this sense, therefore, the laws of the intellectual system are equally well observed with those of the material.

The term *law*, however, has a farther signification, and means a rule of choice, which we desire to have uniformly observed.

In this sense it is employed by moralists, civilians, and those who instruct the taste in any matter of elegance or beauty.

² See Laws of Nature, in the Introduction to every system of mechanics.

In this sense most commonly it is meant, that the intellectual system hath its laws.

And in this sense the law may subsist, without being strictly observed : For it is law in consequence of its rectitude, or of the authority from which it proceeds ; not in consequence of its being the fact.

But, although the more important laws of this sort relate to the intellectual system, yet there are laws of the same kind relating to the material system.

Such are the expressions of what is required to elegance, beauty, or utility, in natural subjects, or of what is required to perfection in works of art.

In such respects, material, as well as intellectual subjects, may deviate from the law.

In the vegetable and animal kingdoms, there are deformities, distortions, and diseases ; as there are in the intellectual kingdom follies, absurdities, and crimes.

To avoid, as much as possible, these ambiguities, laws of the first sort, whether relating to mind or matter, have been termed *physical laws* ; and laws of the second sort, *moral laws* ³.

³ See Introduction.

Common use will authorize this interpretation; although the use of these terms is far from being precise or determinate : For frequently, whatever relates to matter, is said to be physical; whatever relates to mind, is said to be moral.

In consequence of this vague use of the term *moral*, any theoretical question relating to mind has been substituted for moral philosophy; and speculations of little moment have supplanted the study of what men ought to be, and of what they ought to wish, for themselves, for their country, and for mankind.

CHAP. II.

*Examples of Physical Law, collected from
the history of mind.*

SECT. I.

Laws of the Understanding.

THE history of the understanding may furnish three principal rules, or physical laws.

The first relates to the consciousness of ourselves.

The second to the perception of other things.

The third to the comprehension of subjects of which we are conscious, or which we perceive.

FIRST LAW.

We are conscious of our existence, operation, and will.

This is the highest measure of evidence, to which no scepticism ever extended.

SECOND LAW.

Perception is obtained by the intervention of *media*, whether like or unlike to the subject perceived.

1. The medium of sensation.

2. The medium of signs.

The sensation by means of which we naturally perceive the existence of external subjects, has no resemblance to those subjects.

The signs by which we naturally perceive the existence and meaning of other minds, have no resemblance to the things signified.

From this law may be explained the effects of rites in religion; of manners, as well as language, in common life; of title, fortune, and fashion, as grounds of esteem.

Rites are adopted as the signs of devotion towards God.

Manners as the signs of our dispositions towards our fellow-creatures.

Language as the expression of sentiment and will.

Title and fortune are indications or constituents of superior condition.

Fashion is the form in which superior condition is known.

Many signs having no natural connexion with the things they indicate, vary in different countries, and change in the same country, without any change of sentiment respecting the things themselves.

THIRD

THIRD LAW.

To comprehend any particular subject, is to know some general predicament or class to which it may be referred.

Thus to comprehend the nature of any particular being or quality, is to be able to refer it to some known species or class.

To comprehend any operation or phenomenon, is to be able to refer it to some established or known law of nature.

Thus we comprehend all the phenomena that can be referred to the laws of gravitation, cohesion, electricity, and so forth.

From this law may be explained the proceeding of the mind in science, in classification, investigation, and experiment, as well as in its recourse to hypothesis and imaginary system of any sort.

To make a new discovery, is either to investigate some law, or to point out some new application.

Thus Sir Isaac Newton investigated the law of refraction, and applied it to the rainbow, and to the colors of natural bodies.

Dr. Franklin applied the laws of electricity to lightning, and to the aurora borealis.

The laws of nature are the genera and species under which particular facts are ranged, or the predicaments to which they are referred.

Some predicaments have their generic names in every language, have been universally admitted, and are coeval with human thought.

Such are, substance, quality, quantity, number, perfection, defect, good, evil, time, place, &c.

Others are more arbitrary, and chosen to render human knowledge methodical and comprehensive.

Such are the classes and orders into which subjects are distributed in the method of different natural historians.

S E C T. I I.

Laws of the Will.

THE history of the human will may furnish the three following general rules.

F I R S T L A W.

Men are disposed to preserve themselves.

Hence danger alarms, and safety is studied :
The hurtful is shunned ; the useful is valued.

Under this last title men desire the means of subsistence, health, strength, beauty, parts, temper, resolution, &c.

This is commonly termed *the law of self-preservation* : but so great is the variety of men's opinions, and such the caprice of their passions, that the melancholy and froward seem to be at variance with themselves, and appear to desire what is destructive.

S E C O N D L A W.

Men are disposed to society.

They not only associate together, but take part with their fellow-creatures, and consider general calamities as matter of regret, general welfare as matter of joy.

This may be termed *the law of society*; and is that which qualifies the individual to be the member of a community, inclines him to contribute to the general good, and entitles him to partake in it.

The reality of this law has been disputed :

1. Because all the actions of men are not beneficial to society.

2. Because even beneficial actions may be accounted for from other motives.

The actions of men are regulated, not by this law only, but by this combined with every other law of their nature.

If the law of self-preservation, for the most part, prevail, it does not follow, that the law of society has no effect.

The external effect, or tendency, of every law, is diversified in different circumstances.

The general tendency of the law of gravitation is, to cause bodies to approach to each other; as the tendency of the law of society is, to bring men together, to engage them in good offices, or to restrain them from ill ones.

Heavy bodies are not always falling, nor social natures promoting the good of society.

Every physical law, nevertheless, operates to one uniform effect, though with a different appearance.

Thus gravitation operates in pressure towards the earth, whether bodies be at rest, or in motion, in any direction. When bodies are supported, it weighs on the prop that supports them. In descending, it accelerates; in ascending, it retards; in projection, it turns motion into a curve.

In the same manner, what is here termed *the law of society*, though varied in its appearance, is equally real in its effects. In minds

without prejudice, it is indiscriminate humanity. In friendship it is beneficence: In strife it is some degree of restraint: In good offices it is self-approbation: In ill offices it is remorse: Confirms the resolution in one case, and weakens it in the other; so that even the malicious are conscious of its power.

As to the motive from which actions beneficial to mankind proceed, these may be various in various instances, but no person can know, except in his own case, that there are no sincere affections of benevolence and good-will.

T H I R D L A W.

Men are disposed to better themselves.

They distinguish perfections from defects: they admire and contemn.

This is the great principle of ambition in human nature, and may be termed the *law of estimation*, or *of progression*: it is an ultimate fact in the nature of man, and not to be explained by any thing that is previously or better known.

Excellency, whether absolute or comparative, is the supreme object of human desire.

Riches, power, and even pleasure, are coveted with extreme ardor, only when they are considered as the badges of eminence or rank, and become subjects of distinction and emulation.

C H A P. III.

The foregoing laws applied in explaining the phenomena of Interest, Emulation, Pride, Vanity, Probity, and Moral Approbation.

S E C T. I.

Of Interest.

INTERESTEDNESS appears in solicitude about our situation and future prospects: when in extreme it stifles affection, and leads to the commission of frauds and of crimes.

This passion is comprehended in the law of self-preservation, and is a partial application of that law, founded in an opinion of the great consequence of external advantages.

Opinions, and their consequences, are more or less prevalent, in proportion to the prevalence of circumstances by which men are led to entertain such opinions.

For this reason interestedness is very prevalent.

The opinion on which it is founded, arises from the following circumstances.

1. The instinctive care of self-preservation.
2. The early prepossession in favor of sensual objects, because they first engross our attention.

3. The continued care of estate or fortune that is necessary wherever property is established.

4. The rank which riches are supposed to bestow.

From this last consideration, the law of estimation comes to be combined with the law of self-preservation, in accounting for the interested passions of men.

The interested consist of two classes; the prodigal, and the avaricious.

The prodigal are commonly most rapacious, being urged by the desire of enjoyment.

The avaricious are more cautious, being restrained by the fear of want.

Interest and selfishness are sometimes employed as synonymous terms: but the sensual, the proud, the vain glorious, are not less selfish, that is to say, less void of benevolence, than the interested.

And the fault of the interested, consists not in the measure of care bestowed on themselves, but in the mistake of their own principal concerns.

S E C T. I I.

Theory of Emulation.

EMULATION appears in competitions, heart-burning, and strife.

It arises mostly in the pursuit of things of mere comparative value.

Such are, riches, renown, power, or rank.

The value of riches is comparative; for it consists, not in any absolute measure of wealth, but in possessing more than other men.

Renown consists in being more talked of than others.

Power consists in being able to command other men; and rank, in being of superior station.

They who desire what cannot be affected by comparison, such as real happiness, and real virtue, apart from the reputation of either, are not addicted to emulation, enjoy their own measure of good, and rejoice in what is possessed by others.

Emulation may be directed to useful actions, and have effects serviceable to mankind; but is itself an unhappy disposition, a source of envy, jealousy, and malice.

The emulous are not satisfied with any attainment, while others possess an equal, or a superior measure of the same advantage.

The character of the emulous is not elevation of mind, but a passion to be the first in respect to those articles which the vulgar admire; as Cæsar desired to be the first in a village, rather than the second at Rome.

The emulous are enemies to each other, and to men of superior reputation. They are, for the most part, vigilant, courageous, and vehement; indulgent to those who are confessedly inferior, but malicious to those who, in point of consideration, are equal or superior to themselves.

They commonly prefer mean company, in which they can assume a superiority, to better, in which they must submit to equality.

Emulation is one effect of ambition, is comprehended in the law of estimation, and arises from an opinion, that excellence consists in superiority to other men.

S E C T. I I I.

Of Pride.

PRIDE appears in neglect, inattention, contempt, and arrogance.

It is founded, therefore, in a mean opinion of other men.

It is comprehended in the law of estimation; for it is in consequence of this law that men either admire or contemn.

Pride, or contemptuousness, is inconsistent with affection, candor, or any regard to the rights of mankind.

The desire of perfection, and even the love of virtue, have been confounded with pride.

This abuse sometimes proceeds from inattention to propriety of language :

Sometimes from affectation of figurative speech; as when we say, *decent pride*, *noble pride*, *the pride of doing well*, &c. Here it implies contempt; but, in a good sense, the contempt of what is unworthy.

At other times this confusion of words is affected, in order to favor a system; as when we would depreciate virtue, or disprove its reality, by speaking of it in terms which are commonly taken in a bad sense ⁴.

Pride results from the law of estimation, as an abuse of it, or an improper contempt of other men.

⁴ Mandeville's works.

It is ridiculous to attempt confounding the love of virtue with pride : Their tendencies are opposite.

Virtue is a respect for the rights of men, and esteem of what tends to the good of mankind.

Pride is a disrespect for the rights of men, and contempt of mankind.

S E C T. I V.

Of Vanity.

VANITY appears in affectation and ostentation.

The vain affect what they think will captivate the attention and obtain the praise of others.

They are ostentatious of what they suppose constitutes their importance, as of their persons, fortune, equipage, talents, and adventures.

They are gratified by admiration, without any other evidence of merit.

Vanity is comprehended in the law of estimation ; for it supposes the distinction of admirable and contemptible, however misunderstood.

It is the reverse of pride, over-rating the value of other people's opinions, which pride contemns.

The vain are capable of great efforts of courage and resolution when supported by public opinion, and when acting in public view; but, without this support, are feeble and irresolute.

The attention they pay to other men not proceeding from the heart, but from the desire of consequence and applause, they always fail where the fruits or effects of real affection are expected.

S E C T. V.

Of Probity.

PROBITY appears in acts of justice and beneficence.

Men who regard the rights, and feel for the sufferings of others; who are ever ready to do acts of kindness; who are faithful and true to the expectations they raise, — are said to have probity.

Probity implies the love of mankind, founded in a temper that is compassionate, candid, and liberal.

It is comprehended, therefore, in the law of society.

Probity may be understood to constitute an excellency, but cannot be the foundation of pride or contemptuousness.

It may be understood to merit applause, but is directed by affection, not by the desire of admiration or attention.

Men of probity prefer integrity to any other kind of supposed excellency; but frequently have a modest opinion of their own merits.

They are perpetually aiming at the worth they know and admire, not referring to it as a standard by which to censure others.

S E C T. V I.

Of Moral Approbation in general.

MORAL approbation is the judgment formed of characters and actions, as being excellent or just.

It is opposed to disapprobation or blame.

The apprehension of excellence or defect, in some instances, as of beauty or deformity, in merely animal or material natures, is accompanied with simple emotions of admiration or contempt : But, to every person, the apprehension of excellence in himself is attended with elevation of mind. The apprehension of defect is attended with shame or remorse. The same apprehensions respecting other men are attended with complacency, veneration, love, pity, indignation, and scorn.

Men fond of paradox have questioned the reality of moral distinctions : But expressions of praise and blame , in every language, the importance of men's actions to mankind, the opposite nature of dispositions that form the characters of men, the most vehement sentiments of the human heart, which refer to this subject, — show, that the distinction of moral good and evil is real, and universally acknowledged.

In treating of moral approbation, four questions may be separately stated.

1. What do men, for the most part, approve or blame ?
2. By what principle, or consideration, are they directed, in particular cases, to bestow their approbation or censure ?
3. What is the proper subject of approbation or censure ?
4. What is the rule or principle by which men ought to judge of moral characters ?

The two first questions are physical, and belong to this place; the two last are moral, and their answer will be comprehended in the first, or most general laws of morality.

The subject of morality has been greatly perplexed by the blending of these questions together.

The actual errors and corruptions of men, have been mustered up as so many proofs that there is nothing which men ought to esteem or desire.

In physical questions, we attend to the fact; in moral questions, to what is good or evil. The fact, however well established, and however universal, does not preclude us from conceiving and chusing what is better.

If all men were actuated, by interest, emulation, pride, or vanity, it would not follow that probity is no object of esteem or desire. When we are told, therefore, that candor and benevolence are hypocrisy; that courage is anger; elevation of mind is pride; and temperance formality or affectation, — we may ask; whether these allegations are meant as a state of the fact, in the pretensions of some men, or as examples of what men ought to be? The facts may be true; but to chuse a pattern confessedly bad, would be absurd.

S E C T. V I I.

Of the Object of Moral Approbation.

THE object of moral approbation is either some disposition of the mind, or some external action.

Probity is the most approved disposition; and the external expressions of probity the most approved actions.

These constitute the whole, or the most essential part of virtue.

Other subjects may be admired or contemned, but these alone are the subjects of moral approbation, of esteem, and love.

S E C T. V I I I.

Of the Principle of Moral Approbation.

MORAL approbation is comprehended in the law of estimation, and is indeed the principal fact from which we infer the reality of this law; as the vertical pressure and fall of bodies are the principal facts from which, in mechanics, we infer the law of gravitation.

It is, therefore, itself an ultimate fact and principle of nature, not an appearance to be explained from any other principle better known.

It

It has been termed Reason, Conscience, and Moral Sense; but these are so many different names, not different explanations of the same thing.

As the excellence of human nature consists in certain faculties and dispositions, these, when possessed, invigorate the sense of that excellence which they constitute. The intelligent are confirmed in the esteem of wisdom, and the benevolent in the esteem of probity, by the concurrence of such characters in other men with what they perceive in themselves.

Every faculty and disposition, in this manner, has a tendency to justify itself.

The vicious affections and desires of men warp their judgments, and mar their sentiments of justice.

The emulous and interested are unwilling to admire what is adverse to their own designs.

External actions are variously admired or blamed, as they are variously understood to express different characters and dispositions of mind.

Thus men are led by custom in their judgment of rites and external observances.

They are led by emulation or interest to affect the approbation of actions favorable to their own designs.

They are led, by their situations, to entertain a predilection for particular qualities.

Some prefer the military, others the pacific virtues.

But, so far as the virtue or moral excellence of a man consists in such qualities as fit him to procure the good of mankind, the benevolent must have a predilection for virtue, or be specially prepared to admire that excellence. ⁵

Approbation, at the same time, appears to be a specific sentiment in the operation of that law of our nature, which we have termed the Law of estimation.

Systems have differed chiefly by deriving our choice of actions and characters, some from the law of self-preservation, and others from the law of society ⁶; but the fact is, that, if benevolence is understood to be an attribute of human nature, the laws of self-preservation and of society coincide in all their tendencies and applications.

Man is, by nature, a member of society; his safety, and his enjoyment, require that he should be preserved what he is by nature;

⁵ Vid. Lord Shaftesbury's Inquiry into Virtue.

⁶ See Smith's Theory of Moral Sentiments.

his perfection consists in the excellency or measure of his natural abilities and dispositions; or, in other words, it consists in his being an excellent part of the system to which he belongs: So that the effect to mankind should be the same, whether the individual means to preserve himself, or to preserve his community. With either intention he must cherish the love of mankind, as the most valuable part of his character. As this is the foundation of probity, it is that which leads men to give to probity, as such, the preference to every other disposition or habit of mind ⁷.

⁷ Essay on the History of Civil Society, part 1. sect. 6.

C H A P. IV.

Of the Nature and Future Prospects of the Human Soul.

S E C T. I.

Of the Immateriality of the Soul ^s.

TH E nature of man has been universally considered as mixed, or composed of an animal and intellectual part, of body and mind.

This nature is capable of many functions, of which some being the exertions of corporeal organs, constitute the animal part; others, not being referred to any corporeal organ, are conceived as the attributes of mind or spirit.

Man, in respect to his animal nature, differs from the brutes only in the degree or manner of what he exhibits; but, in respect to his intellectual nature, differs totally, and in kind.

Being destined to act from observation and experience, not from special instinct, he is, when ignorant, apparently inferior in artifice

^s See Baxter on the Immateriality of the Soul.

and power to the other animals; but, when knowing, greatly superior.

That by which he excels other animals, is termed *his mind*, and has been universally distinguished from *body*.

The properties of mind have no analogy to those of matter: Properties of the one are even opposite and contradictory to properties of the other.

Matter is divisible and inert; mind is indivisible and active.

What are called *faculties of mind*, are its active powers, of which all may be exerted together, or in the least measurable portion of time.

They are not distinct parts of a complicated nature, but abstractions, which enable us to consider separately the simultaneous operations of mind.

The mind of man is, in a particular manner, united with his body, and present to whatever affects the senses: But, in other instances, is equally present to the most remote, as to the nearest object of thought.

S E C T. I I.

Of the Immortality of the Soul.

EVERY question relating to a future state must be solved from the nature of the soul, from the state of the fact at death, or from principles of religion.

The nature of the soul being indivisible, or not subject to a dissolution of parts, and annihilation being unknown in the order of nature, it follows, that the soul is physically immortal.

The fact at death is, that the body ceases to be animated, or to give signs of the presence of mind: But mind being of a different nature, may exist apart.

No argument can be drawn from principles of religion, until these principles be laid down **or stated.**

The mind of man is, in a particular manner, united with his body, and present to whatever affects the senses: But, in other instances, is equally present to the most remote, as to the nearest object of thought.

Being destined to act by himself, he is, not from special instinct, he is, ignorant, apparently inferior in artifice

INSTITUTES
OF
MORAL PHILOSOPHY.

PART III.
OF THE KNOWLEDGE OF GOD.

CHAP. I.
OF THE BEING OF GOD.

SECT. I.
Of the Universality of this Belief.

MANY operations in nature have been universally looked upon as the exertions of mind or spirit, distinct from man.

^I See Ray's Wisdom of God in the creation. Sermons at Boyle's Lectures.

The most ignorant apprehend such exertions in the little sphere of their own concerns. The more knowing apprehend them in the general order of nature to which their observation extends.

The conceptions of rude minds on this subject are groveling, or require correction; but absolute atheism is an effect of study, and an effort to withstand original feelings. If successful in any particular instance, it is no more than an exception to a general rule.

Our habit of occupying the imagination with corporeal subjects, brings on a disposition to conceive every thing under corporeal images, and even of doubting the existence of what is not corporeal: But, on recollection, we must be sensible that the first and surest part of our knowledge is that of mind. And the existence of design, perceivable in the order of nature, not less familiar than the existence of what we see and hear.

The belief which is here assumed does not imply any adequate notion of the Supreme Being. Men, for the most part, have entertained notions on this subject, unworthy even of human reason.

But the belief that an artist, or author, exists, is consistent with mean and improper notions of his capacity and intentions.

The belief that Homer composed the Iliad, is compatible with inadequate notions of that poet's genius.

The belief that books read at school were composed by men, is consistent with a notion, that even the classics were written for the use of children.

SECT. II.

Of the Foundation of this Belief.

THE belief of Intelligent Power operating in nature being universal, cannot depend on circumstances peculiar to any age or nation, but must be the result of human nature, or the suggestion of circumstances that occur in every place and age.

In the nature of man, there is a perception of causes from the appearance of effects, and of design from the establishment of order, or from the concurrence of means to an end.

Sceptics have not denied the reality of these perceptions; they have rather complained of them, as the foundation of general and vulgar errors.

But our knowledge and belief of every sort originates in some such natural perception, as in the perception of matter and its properties; in the information we take from others, and in what we understand as the meaning of signs.

In any of these cases, we can assign no reason for our belief, but that we are by nature made in one case to perceive existence; in another, to accept information; and in the third, to understand what is signified.

No argument is required to prove, nor can argument have any effect to refute, where nature has determined that we shall perceive, be informed, or understand.

No one can refrain perceiving that the eye was made to see, the ear to hear; that the wing was made for the air, the fin for the water, the foot for the ground; and so forth.

The perception of an end or intention in the works of men, implies the belief of an artist. The perception of an end or intention in the works of nature, implies the belief of God.

To acknowledge the perception of order, is to admit final causes.

In Nature, final causes may be considered as the language in which the existence of God is revealed to man.

In this language the sign is natural, and the interpretation instinctive.

Its accents are heard in every quarter, and its character is written on every material to which our knowledge extends.

C H A P. II.

Of the Attributes of God.

S E C T. I.

Of these Attributes in general.

THE attributes of God are characters of the Supreme Being suggested by his works.

They may be referred to five principal titles; Unity, Power, Wisdom, Goodness, and Justice.

S E C T. II.

The Unity of God.

THE perception of final causes implies the belief only of one God.

To conceive a plurality of gods is a corruption.

Different nations separately formed their notions of the Deity. On comparing these notions, they did not endeavour to reconcile them to the belief of one supreme being; they formed a list composed of many gods, having their different attributes and separate departments in nature.

S E C T. I I I.

Of Power.

POWER is the attribute of the first cause; and, in the Creator of all things, cannot be circumscribed.

S E C T. I V.

Of Wisdom.

WISDOM is the attribute of intelligence; and the belief of wisdom in the author of nature, is implied in the perception of final causes.

The Wisdom of God is perfect and infinite, or cannot be deficient in the discernment of any thing that exists, or of any thing that is possible in respect to matter, form, relation, excellence, or defect.

S E C T. V.

The Goodness of God.

THIS is the attribute of the creator and preserver of all things.

The proofs of goodness are,

1. The creating of sensitive and rational beings.
2. The measures of good which they are made to enjoy.
3. The order established for their preservation.

Without the first, there would be no object on which goodness could exert itself.

And the numbers of such objects, as well as the destination suited to the nature of each, are proofs of goodness in the first cause.

2. What their numbers or destinations are, cannot be known to us; but the order and tendency of what we know, leads to the belief of universal good.

The lot of man is mixed, but his nature likewise is fitted to a mixed scene.

He complains of evil in his external circumstances, or in his own nature and conduct.

The first subject of complaint is termed *physical evil*; the second, *moral evil*.

Physical evil is the discordance of things to man's desires.

Without such discordance there would be no place for active exertions.

Complaints, therefore, of physical evil are not proofs of absolute evil in the works of God, but the symptoms of an active nature in man properly placed, and having proper excitements to exert its power.

A scene in which there were no accessions of good to be gained, or, what is equivalent, no apparent evils to be removed, would be a scene of inaction, adverse to the nature of man.

In other words, a being that perceived no evil, or had no want, could have no principle of activity.

Man by being employed as an active power in the order of nature, is not made to forego his own happiness.

The enjoyments of men are observed to depend not on the measure of external accommodations, but on the part they act; not on their safety, but on the degree of courage they

possess; not on what they gain for themselves or others, but on the degree of ardor and affection they exert.

Moral evil is the blemish of man's nature, short of what is perfect or right; and what he himself feels on this subject is an evidence that he is not at once what he is destined to become.

Complaints of moral evil are the symptoms of a progressive or improving nature.

A being that perceived no moral evil, or no defect, could have no principle of improvement.

To remove the complaints of moral evil, it is necessary that men were either freed from all imperfections, or rendered insensible of the imperfections they have.

The first is impossible: Men must have the imperfections of created nature.

As to the least possible measure of such imperfections, we are far from being able to ascertain it.

For a being to be insensible of the imperfections he has, would be an irremediable blemish in his nature.

Man's pungent sense of his own errors and defects, as it is the source of his complaints against the system of things, so it is the source
of

of his improvements, and is a beauty in his nature.

He is a voluntary agent, destined to act under the following wise restraint:

That his hurtful dispositions are painful to himself, and his beneficial dispositions are pleasant.

The suffering, as well as the enjoyment, in this case, is a proof of beneficence in the power that inflicts it.

3. Every part, in the order of nature, is calculated for the preservation of the whole.

Things the most remote, are made to concur to the same salutary purposes.

The order of the planetary system is calculated for the preservation of every being that occupies any part of this system.

The pains, as well as the pleasures, of living and sensitive creatures, tend to their preservation.

The order of nature is preserved by the succession of lives; so that, whilst the individual is perishing, the species of every animal is safe, and the system of nature is secured from decay.

S E C T. VI.

Of the Justice of God.

JUSTICE is the result of wisdom and goodness; and therefore most perfect in God.

Whence is the distinction of *just* and *unjust*, but from God the author of all things.

Justice is goodness impartial and universal; rendering every part subservient to the whole, and calculating the whole for the preservation of its parts; but precluding every part from any enjoyment in what is pernicious to the whole.

The pains and pleasures incident to man's nature, are distributed agreeably to this rule of justice.

For the characteristic decree of God, apparent in the structure of human nature, is, that benevolence is always pleasant, malice is always painful.

C H A P. III.

Of a Future state.

CONTRARY to the appearances at death, the human soul has been generally supposed to survive its separation from the body, and to be reserved to a future state of rewards and punishments.

This apprehension is agreeable to the most rational notions of the goodness and justice of God.

That goodness which disposed the Almighty to create, may likewise dispose him for ever to preserve his intelligent creatures.

There is a continual creation of rational as well as animal natures.

But animal natures are certainly extinguished; why not rational?

The first is necessary. The world would be overstocked with animals, if generations did not die to make way for those that were to follow.

But the world of spirits may, without inconvenience, increase for ever.

The desire of immortality is instinctive, and is a reasonable intimation of what is intended by the author of this desire.

The progress of man's intelligent nature may be continued beyond the attainments of this life.

Whoever considers the anatomy of the foetus will find in the structure of bones and muscles, in the organs of respiration and digestion, sufficient indications of a design to remove his being into a different state.

The observant and intelligent may perhaps find in the mind of man parallel signs of his future destination.

The government of God is righteous; but man's instinctive desire of distributive justice is not fulfilled in this life. Hence the universal belief, that wicked men are to receive additional punishments, and good men additional rewards, in a future state.

“Diverſo itinere, malos a bonis loca tetra,
“inculta, foeda, atque formidolosa, habere².”

² Cato, in Saluſt's Hiſt. Cat. conſpiracy.

INSTITUTES
OF
MORAL PHILOSOPHY.

PART IV.

OF MORAL LAWS, AND THEIR MOST
GENERAL APPLICATIONS.

CHAP. I.

Definitions.

MORAL law, as distinguished from physical law, is any general expression of what ought to be.

In this sense, the rules of art, the canons of beauty and propriety, relating to any subject whatever, are to be classed with moral laws ¹.

Moral law, as referred to intelligent natures, is any general expression of what ought to be chosen or done.

¹ See Hutcheson of the Ideas of Beauty and Virtue.

Mechanical operations proceed without object or opinion.

Animal operations are determined by instinct.

Rational actions by opinion, or conception of what is good.

Hence good, wherever apprehended or expressed, implies an obligation to determine the choice of every rational being to which it refers.

The neglect of it, in moral actions, is matter of indignation or blame.

Moral laws may be considered under different aspects, and distinguished by different titles.

Considered in respect to their source, they may be distinguished as original, or natural and adventitious, or conventional.

Considered in respect to their subjects, they may be distinguished by denominations taken from those subjects; as laws of religion, or of society; as laws of peace, or of war; as laws political, civil, or criminal.

Considered in respect to the persons to whom they are applicable, they are laws of nations, or the laws of particular states.

Moral philosophy is the knowledge of moral laws, respecting their sources and their applications.

The obligation of every law, whether original or adventitious, general or partial, may be resolved into an obligation of the law of nature.

The first or fundamental law of nature relative to mankind, is an expression of the greatest good competent to man's nature.

Subsequent laws are branches and applications of this.

THE terms good and evil are applied to enjoyment and suffering, perfection and defect, prosperity and adversity. Enjoyment and suffering are opposite conditions of a sentient nature. Perfection and defect are the opposite conditions of an improvable or progressive nature. Prosperity and adversity are the opposite conditions of things contingent, in which the most fortunate have not a choice.

SECTION II.

Of Enjoyments and Sufferings.

THE enjoyments and sufferings competent to man's nature, are either animal or intellectual.

C H A P II.

OF GOOD AND EVIL.

S E C T. I.

General application of these terms.

THE terms *good* and *evil* are applied to enjoyment and suffering, perfection and defect, prosperity and adversity.

Enjoyment and suffering are opposite conditions of a sentient nature.

Perfection and defect are the opposite conditions of an improvable or progressive nature.

Prosperity and adversity are the opposite conditions of things contingent, in which the most fortunate have not a choice.

S E C T. II.

Of Enjoyments and Sufferings.

THE enjoyments and sufferings competent to man's nature, are either animal or intellectual.

The first are mere animal sensations of pleasure and pain, or the gratifications and the wants of appetite.

The second are sentiments attending the conception or consciousness of good and evil, such as love and hatred, joy and hope, or grief and fear; or, in general, the occupation or inoccupation of powers naturally active, and agreeable or disagreeable.

S E C T. III.

Of Perfection and Defect.

THE principal perfections of man's nature are, benevolence, wisdom, and force of mind.

The principal defects are, malice, folly, sensuality, and cowardice.

This contrast is commonly expressed in the terms *Virtue* and *Vice*.

S E C T. IV.

Of Prosperity and Adversity.

THE circumstances relative to man's nature that constitute prosperity are, health, education, security, fortune, and long life.

The opposite circumstances that constitute adversity are, disease, neglect, thralldom, poverty, and death.

S E C T. V.

*Of the Question relating to the Supreme;
or sole Good.*

THE characters of men are variously formed upon their predilection for pleasure, honor, or profit; and disputes have arisen in the schools of philosophy concerning the preference to be given to one or other of these, in erecting a system.

In stating the object of this controversy, we may assume, that men must owe their measure of happiness either to the gratification of natural desire; to the quality of their dispositions, and the proper exertion of their natural powers; or to both these united.

This assumption will enable us to comprise every doctrine on the subject of happiness, under what was taught by the Epicureans, the Peripatetics, or the Stoics.

The Epicureans supposed the supreme good to consist in the enjoyment of what we are by

nature led to desire; and, as desire originates in the sense of pleasure, they contended for pleasure as the supreme or sole good, and the measure by which the value of excellence itself was to be estimated.

Thinking independence, however, necessary to the completion of happiness, they supposed the perfect man capable of enjoying his pleasure not only in the absence of every external cause, but in the midst of circumstances of a contrary effect.

The Academy, and, after them, the Peripatetic School, distinguished excellence from pleasure, and gave to the first a superior place in the scale or estimate of things good.

They observed, that all desire does not originate in the sense of pleasure.

That there are various propensities of nature, prior to the experience of pleasure or pain.

Such are the propensities of every animal to the use of his organs: The propensity of man to the use of his faculties.

The natural affection of parents to their children.

Love and confidence, founded in sympathy or conceptions of merit.

Ambition and elevation of mind, founded in the conception of excellence and worth.

They observed, that, to these, or some of them separately, we are willing, on many occasions, to sacrifice every consideration of pleasure or profit, and to incur every circumstance of pain or loss.

They maintained also, that the measure of happiness which men attain, is not to be estimated from the degree in which they possess or enjoy the objects of desire; but more from the part they take, or from the conduct they hold in this active scene, where so many affairs and transactions arise in pursuing the objects of original desire; but where the conduct of the person acting is nevertheless the principal consideration.

In just conduct, the virtue or supreme excellence of a man consists; and in this also consists the supreme good to which he ought to aspire.

That, although human life is put in motion by the spring of certain original desires, yet, that the motion itself is of more importance than the moving power which gave rise to it.

Wisdom is of more value than the external advantage secured by it.

Benevolence is of more value than the benefit conferred by it.

And, in general, that, wherever man is the instrument employed for the attainment of external ends, the means are of more value than the end.

They did not, however, venture to assert that the end was indifferent, or that the life of a virtuous man might be equally happy in adversity and in prosperity.

They were contented with giving to virtue the highest place in the scale of happiness; and they supposed it to be so much above that of every other good, whether of pleasure or profit, that the highest measures of these were never to be put in competition with the obligations of integrity and justice, even in matters of the smallest importance.

The Stoics concurred with the Peripatetics in the principal parts of this argument. They distinguished between the occasion on which a man acted, and the action itself. The first might be, and actually was frequently of a trivial nature, while the action was of great importance. This they farther explained, and urged more forcibly than the Peripatetics had done.

They maintained, that good and evil consisted altogether in the part which a man acted, not in the circumstances in which he was placed.

In their controversy with the Peripatetics, they laid hold of the concessions made by the latter, in respect to the preference due to any consideration of justice before the highest considerations of pleasure or profit; and maintained, that it was absurd to state, under the same denominations of good and evil, things in their nature so different, that the highest consideration of one kind could not be brought in competition with the lowest of the other.

That this was not merely in words, to confound things together, which ought to be stated apart; but to countenance hesitation and irresolution, when sacrifices of pleasure or interest were to be made to considerations of justice and duty.

They observed, that, as the people are often misled by the inaccuracy of their own expressions, it is no inconsiderable object of philosophy to correct this defect, and to teach men to call nothing good but that which is to be chosen at all times, and without any exception whatever, and not to indulge them in the error of confounding, under the same

appellations, things contingent with things which are in their own power, and for which they are responsible.

They observed, that it was absurd in the Peripatetics, who acknowledged the supreme excellence of the virtues, among which magnanimity and fortitude had a principal place, nevertheless to suppose that happiness would be more complete if there were no occasion to call forth or to exercise these virtues.

It appeared absurd to state, under the same denomination of good, the wealth which the miser coveted, and the contempt of that wealth which the liberal sometimes expressed, and always maintained when proper.

For these reasons, the Stoics limited the appellations of good and evil to virtue and vice alone.

Their system, in the common acceptation of words, seemed to be made up of paradox. Pain was no evil; pleasure was no good; all external events, whether prosperous or adverse, were indifferent: But this, in their language, meant no more than that there was no moral turpitude in pain; no moral excellence in pleasure; that virtue might be

practised equally in all events, whether prosperous or adverse.

When the occasion did not require a different choice, pleasure was to be preferred to pain, and prosperity to adversity; that, as pleasure was often to be rejected, and pain to be embraced, it was absurd to call that good which it was good to reject, or evil, which it was an evil to avoid. There was, in the proper or improper use of what befel us, a real good or evil; but this good was to be found in adversity, as well as prosperity, and the evil no less in prosperity than in adversity.

Thus we may conceive, that the Epicureans made happiness to consist in the objects of their pursuit, or in the enjoyment of them.

That the Stoics placed it in the proper choice of their pursuits, and in the integrity and wisdom of their conduct; whilst the Peripatetics required both to complete the idea of happiness, or the supreme good.

There were other schools, whose language differed from that of the sects we have mentioned, but who, in respect to the effect or tendency of their systems, might be involved with one or other of these.

In

In general, it may be affirmed, that every sect acknowledged the necessity of virtue, or allowed, that, in every well directed pursuit of happiness, the strictest regard to morality was required. The Stoics alone maintained that this regard itself was happiness, or that, to run the course of an active, strenuous, wise, and beneficent mind, was itself the very good which we ought to pursue.

S E C T. VI.

Of the Considerations from which an Estimate may be made of what is most valuable in Human Life.

IT is a maxim allowed in some instances, that we ought not to dispute about tastes; but this, in every case, is certainly not true.

We are by nature qualified to distinguish tastes themselves, as worthy and unworthy, as well as to distinguish other objects by means of our tastes.

We think meanly of ourselves for the pleasures we take, or the pains we shun; and we

think well of ourselves for the pleasures we forego, or the pains we endure.

The feeling of the present moment, unsupported by experience of its effects, unjustified by any judgment of its value, and unwarranted by observation of what passes in human life, is a very uncertain, fleeting, and fallacious standard of estimation.

To chuse well, we ought to consider not only what is at present agreeable, but what occupies the mind most intensely, what occupies most continually, and what is the most permanent subject of satisfaction and esteem.

By this test the several articles of reputed good and evil may be safely examined and estimated.

Animal enjoyments are occasional and transitory; they pall on the sense, or must wait the returns of appetite.

They occupy, therefore, but a small portion of human life.

Sensuality, or the attempt to render them continual, impairs the power of enjoyment, and the faculties of the mind.

Sensuality is a distemper of the imagination, of which the languors or disgusts need to be remedied by a mixture of rational amusements and pastimes.

The sense of animal pleasure seems destined to excite to action, and to direct man to what is salutary, but not to constitute the enjoyment of human life. Bodily pain is occasional, but not always transient.

It appears destined to direct men in shunning what is pernicious.

It is prolonged to a greater measure than any bodily pleasure, and sometimes actually ends only in death.

Suitably to its final cause, the pain remains while the attack on animal life continues; and it increases as the danger approaches.

In human life, for the most part, bodily pains are but slightly experienced, and are not the evil which we have most to fear.

The continued enjoyments of men in human life, arise from their active engagements, their affections, joys, and hopes.

Their continued sufferings arise from ill temper, envy, jealousy, malice, and cowardice.

Men are best amused with exercises that engage them most, that awaken their affections, and occupy their talents.

For this reason the more serious and urgent occupations are to be preferred to the more slight and apparently pleasant.

Men of business have more enjoyment than men of dissipation.

The reverse of amusement is inoccupation and languor.

Affections are pleasant, in proportion as they are ardent, diffused, and extensive.

Malice is painful, in proportion as it is diffused, rancorous, and implacable.

Joy and hope are intense and permanent, in proportion as they are founded in just opinions of things.

False opinions lead to transient joy and to disappointment.

Grief, and fear, and disappointment, are most frequent where men most mistake the moment or value of things.

Vehement affection, active engagement, or passion, suspend the sense of bodily pleasure or pain.

Intellectual enjoyments, in general, are preferable to the animal, as they may be rendered continual, or occupy the greater part of human life.

It appears, upon the whole, that serious engagements, benevolent affections, and just opinions, are the preferable source of enjoyments in human life.

It has been observed, that one of the strongest propensities in human nature is ambition, that which tends to perfection, or the bettering ourselves.

The phenomena of this propensity are mixed, its abuses, emulation, pride, and vanity, are mixed with moral approbation, magnanimity, and elevation of mind.

Under the influence of this propensity, men forego any pleasure, or incur any pain.

Benevolence, or the love of mankind, is the greatest perfection; it is likewise the source of greatest enjoyment.

Wisdom, or a just estimation of things, is the best security against disappointment, despair, and all the wretched passions.

Temperance is the proper use of enjoyments of every sort.

Fortitude is an antidote to dejection and fear, the best security in danger, and the best alleviation of unavoidable sufferings.

The higher animal pleasure is rated, the more temperance, or the proper use of them, must be valued.

The more bodily pain appears formidable, the more fortitude, that enables men, with

presence of mind, to avoid, or with patience to endure it, is to be valued.

The greatest defects, as well as sufferings, of men, are malice and cowardice, or result from intemperance and folly.

In human nature, therefore, the most eligible enjoyments, and the state of least suffering, coincides with the most excellent state of the character.

Prosperity is actually valued, on account of its supposed tendency to constitute enjoyment, or to better our state.

Health enables us to attain to the preferable enjoyments and accomplishments of human life, but is not an absolute security for either.

The proper use of health is good, the abuse is evil.

Good education is calculated to promote good dispositions, and to bestow valuable accomplishments.

Neglect has an opposite tendency.

But neither the best nor the worst education necessarily produce any precise effect.

Security or liberty is best attained under wise political establishments. It is the result of justice, and tends to promote the love of mankind.

This effect, and all the proper uses of liberty, are good.

The abuse is evil.

Thralldom is, in all respects, the reverse of freedom or security.

Competency of fortune is sufficient to all the purposes of animal life.

Increase of wealth does not proportionally increase enjoyment.

It often leads to sensuality, dissipation, sloth, pride, and disdain.

Man is formed for mixed fortune; difficulties and dangers call forth powers, in the exercise of which his greatest perfections and his greatest enjoyments consist².

Mere life is to him an opportunity to avail himself of the good, while it exposes him likewise to incur the evil, of which his nature is susceptible.

² Henry IV. says the President Henault, was among the best and the greatest of our Kings. He met with that which forms great men, and makes them known, *difficulties to be surmounted, dangers to be encountered*; and, above all, adversaries who were worthy of him, as requiring the full exertion of all his abilities*.

* Abrégé de l'Histoire de France, fin du règne de Henry IV.

The proper use of life is good, the abuse of it is evil.

The value of prosperity, in general, depends on the proper use of advantages.

The proper use of things is a perfection of human nature.

The desire of perfection, therefore, well understood, appears to be the surest guide to enjoyment, and to all the advantages of prosperity.

All our enjoyments, besides those of sense, arise from our having some pursuit or affection, to which pleasure is not the object, but an accession. Thus the pleasures of hunting arise from eagerness to seize the prey; the pleasures of occupation arise from the ardor with which we pursue our object, the pleasures of affection arise from the regard we have for other men; and the pleasure of good actions arises from the esteem of virtue. If pleasure be our sole object, we must forego it in all those instances.

The measure of good which any one possesses is to be estimated from his personal character, not from his circumstances, or external means of enjoyment.

In the different denominations of good and evil, it appears that virtue and vice are of the greatest moment.

The first is itself the greatest advantage, the securest possession, and that which enables men best to employ all other advantage, and all other possessions.

The second is wretched in itself, and turns every other circumstance into a curse.

C H A P. III.

OF MORAL LAW, AND THE SUBJECTS TO
WHICH IT IS APPLICABLE.

S E C T. I.

Of the fundamental Law of Morality.

FROM the foregoing estimate, we may venture to affirm, that the qualities of man's nature are of more moment than any of the circumstances in which men are placed, and that the first concern of a man is to consider what he himself is, not how he is situated.

In stating a first principle of morality, however, it is not necessary to enumerate all the valuable qualities of human nature; it is sufficient to select some fundamental article, in itself important, and leading to the whole.

With these conditions, a principle will serve our purpose, the better for being expressed in few words, provided it bring into view that which is most essential, and that which is for ever to be kept in mind.

Under this description, we may venture to assume, as a first principle of morality, that the greatest good competent to man's nature is the love of mankind.

Benevolence, and the love of mankind, are terms nearly synonymous; but we prefer the latter in this place, as excluding pretensions to merit on account of any sentiment without an object, and as requiring, at once, all the efficacy of a good disposition towards those who are within its reach.

The law of benevolence may be applied separately to mind, and to the external actions of men.

In its application to mind, it will lead us to enumerate the valuable qualities connected with it, whether as cause or effect; and it will lead us to complete the definition of virtue, or the description of a rational nature accomplished and happy.

In its application to external actions, it will lead us to consider in what variety of external forms the same dispositions of mind may appear, and to mark out the tenor of conduct which the just will naturally hold.

S E C T. II.

*Of the application of the Laws of Morality
to Mind; or of Happiness.*

HAPPINESS is the possession of the greatest good, or the possession of a mind benevolent, wise, and courageous.

It is a distinction of the personal qualities of men, not of their situations.

The foundation of happiness is a benevolent affection, ever directed towards some real object, but most intense towards the most worthy, and most active towards those who need its aid.

Among its objects God is supreme.

This affection being an active principle, requires or inspires all the qualities which are requisite to attain its end.

Among these qualities wisdom occupies the principal place.

An extensive and just understanding leads to piety, benevolence, and candor.

Good intentions have not the corresponding effects, if not properly conducted.

Good intentions, when mislaid or abused, end in disgust, or in a too general diffidence of mankind.

This disposition requires courage and fortitude; for weak minds are too much occupied with their own safety to entertain any sincere or vigorous affection.

It requires temperance; for men addicted to sensuality or dissipation are not capable of continued or serious attachments.

This affection, when sincere and ardent, naturally occupies the mind to the exclusion of inferior pleasures, of personal anxieties, and fears; and is therefore a principle of temperance and fortitude.

SECT. III.

Of the degrees of Happiness, and the actual attainments of men.

THE definitions of perfect happiness and of perfect virtue are the same.

Universal benevolence, unerring wisdom, a force and elevation of mind, which inferior pleasures cannot seduce, and which blameless sufferings cannot depress.

In giving this definition, we present an object of desire, without attempting to determine in what measure or degree it has ever existed.

Men conceive perfection, but are capable only of improvement.

The conception of perfection is a light to direct their progress.

The object of moral philosophy is, to ascertain this conception, not to determine in what degree it is realized.

The dispositions of men are various, and their forces unequal: It is impossible to ascertain the limits of their progress.

Human nature fails in the direction it takes, not in the force with which every man endeavours to better himself.

Different men, in the pursuits of ambition, take different directions.

It is the ambition of one man to be rich, of another to be noble, of a third to be renowned; it would be easier to improve in the merits of a just and vigorous mind.

Men commonly are what their conceptions and habits of thinking have a tendency to make them. Miserable under the effect of conceptions that mislead or enfeeble the mind. Happy under the effect of conceptions of an opposite tendency.

S E C T. IV.

Of Opinions or Conceptions productive of Misery, or that hinder Improvement ³.

IT is unhappy to lay the pretensions of human nature so low as to check its exertions. The despair of virtue is still more unhappy than the despair of knowledge.

It is unhappy to entertain notions of what men actually are, so high, as, upon trial and disappointment, to run into the opposite extreme of distrust.

It is unhappy to rest our own choice of good qualities on the supposition that we are to meet with such qualities in other men, or to apprehend that want of merit in other men will dispense with that justice or liberality of conduct which we ought to maintain.

It is unhappy to consider perfection as the standard by which we are to censure others, not as the rule by which we are to conduct ourselves.

³ See Epictetus by Arrian, and Antoninus's Meditations.

It is a wretched opinion, that happiness consists in a freedom from trouble, or in having nothing to do.

In consequence of this opinion, men complain of what might employ them agreeably.

By declining every duty, and every active engagement, they render life a burden, and they complain that it is so.

By declining business to go in search of amusement, they reject what is fitted to occupy them, and search in vain for something else to quicken the languor of a vacant mind.

It is therefore unhappy to entertain an opinion, that any thing can amuse us better than the duties of our station, or than that which we are in the present moment called upon to do.

It is an unhappy opinion, that beneficence is an effort of self-denial, or that we lay our fellow creatures under great obligations by the kindness we do them.

It is an unhappy opinion, that any thing whatever is preferable to happiness ⁴.

The

⁴ There is hardly a man to be found, says an ingenious observer, who would not rather be in pain to appear happy, than be really happy to appear miserable; *Tatler*, No. 63.

The vulgar, as well as the learned, have their paradoxes: They frequently prefer interest, fame, and power, to acknowledged happiness.

They prefer consideration, or the imputation of worth, to worth itself.

It is wretched to rely for happiness on what we cannot command.

It is wretched to have an opinion of good in things which we might forego with indifference, or of evil in things which we might endure with patience.

It is an error to employ terms of admiration or contempt loosely, and without attention to their proper meaning.

We vulgarly say, that *a man* is the better or the worse, when we mean only that something has happened to affect his fortune.

Such phrases, we suppose, may be understood; but, like many others of the same kind, they slur over a very absurd apprehension, that confounds external circumstances with personal qualities, and what does not belong to a man with what does.

Men, to appear happy, run into prodigality, and incur serious distress.

S E C T. V.

Of Opinions or Circumstances productive of Happiness, or that lead to Improvement.

IT is happy to value rational qualities above every other consideration; and to state perfection as a guide to ourselves, not as a rule by which to censure others.

It is happy to rely only on what is in our own power; to value the characters of a worthy, benevolent, and strenuous mind, not as a form merely to be observed in our conduct, but as the completion of what we have to wish for in human life, and to consider the debasements of a malicious and cowardly nature, as the extreme misery to which we are exposed.

It is happy to have continually in view that we are members of society, and of the community of mankind; that we are instruments in the hand of God for the good of his creatures; that, if we are ill members of society, or unwilling instruments in the hand of God, we do our utmost to counteract our nature, to quit our station, and to undo ourselves.

I am in the station which God has assigned me, says Epictetus. With this reflection, a man may be happy in every station; without it, he cannot be happy in any. Is not the appointment of God sufficient to outweigh every other consideration? This rendered the condition of a slave agreeable to Epictetus, and that of a monarch to Antoninus. This consideration renders any situation agreeable to a rational nature, which delights not in partial interests, but in universal good.

Whoever has sound conceptions of things, and possesses good personal qualities, holds them in dependence only upon God; but the circumstances in which men are placed; the policy or government of their country; their education, instruction, and example, — have great influence in determining what they shall think, and what they shall be inclined to perform.

S E C T. VI.

*Application of the Laws of Morality to
External Actions in general.*

EXTERNAL actions, in respect to the person who performs them, if considered apart from affection or intention of mind, are mere movements of the body, constituting neither enjoyment nor suffering, good nor evil; and, in respect to the persons affected by them, are mere physical causes, producing benefit or harm, but without any moral quality whatever.

But affection, intention, or will, being good or evil, it follows, that the same law of morality which requires or forbids the affection, must likewise require or forbid the external conduct that is supposed to result from it.

The law which requires the love of mankind, supported by wisdom, courage, and temperance, likewise requires every external action that is suited to this affection, and to these qualifications.

The law that prohibits malice, remissness, cowardice, or intemperance, prohibits likewise every external effect of these characters.

S E C T. VII.

*Diversity of Opinions concerning the Morality
of External Actions.*

N OTWITHSTANDING the alarming difference which all mankind conceive between innocence and guilt, honor and dishonor; yet, in comparing their judgments, they do not appear to be agreed concerning the actions which they require or prohibit in any case whatever. What is reckoned innocent or praise-worthy in one country, is reckoned a heinous offence in another. The definitions of theft, murder, or treason are different in the laws of different countries; and actions materially the same are, in one case, morally good, in another case morally evil.

The terms expressing the external duties of men in one language, have not a precise equivalent in another. Hence we are sometimes inclined to doubt the reality of any standard by which to ascertain the distinction of right and wrong.

S E C T. VIII.

Causes of this Diversity.

THIS difficulty may, in part, be removed by observing, that, as mere external actions, apart from intention and will, have no moral quality, we must not expect to ascertain the distinction of moral good and evil in the description of external actions. We must look for it in what is characteristic of human nature, *will, intention, and design*, whether benevolent or malicious.

Concerning these, there has been no diversity of judgment.

All mankind are agreed, that benevolence and courage are good, that malice and cowardice are evil; and, if it should be alledged, that any number of men are of contrary opinions, yet every person may, from his own experience, correct the error.

The different acceptation of external actions proceeds from three different causes:

1. The difference of the case.
2. The different choice of the parties who are affected by the action in question.
3. The different interpretation of actions.

S E C T. IX.

Difference of the Case.

CASES change with the person, and with circumstances.

An action materially the same is permitted to one person, and forbidden to another: It is the duty of a magistrate to put the guilty to death; this would be criminal in a private party.

A person may kill in his own defence, but not in different circumstances.

Cases are varied indefinitely; and rules of action being general, cannot provide for all the peculiarities of any case whatever.

The only direction on which men can rely in every particular case, is the discernment of a wise and benevolent mind.

S E C T. X.

Difference of Choice.

TH E different choice of parties interested in the effect of any action, arises from opinion.

One person believes that to be good for himself, which another person believes to be evil. In their requisition of beneficent actions, they differ accordingly: One man requires as a favor what another would resent as an injury.

There is no external effect of which men may not entertain contradictory opinions, even of life and of death.

The father among the Esquimaux requires, at a certain age, that his own children should put him to death.

The widow in Europe desires to have a good settlement made by her deceased husband: In India, she desires to be burnt on his funeral pile.

In every case, actions are required as the effects or expressions of kindness and regard.

S E C T. XI.

Difference of Interpretation.

IN many instances, external actions are, in their own nature, indifferent, or of no effect; but are the established signs and expressions of neglect or attention, of good or of ill will, or of some affection or disposition.

Such are many religious rites in every country, and many ceremonies observed in common life. Even actions of more consequence are frequently more regarded on account of their meaning, than on account of any other effect.

The ingenuous or malicious mind is so well known in every age or country by some determinate course of life, that the customary action alone is sufficient to procure approbation or blame: We look no farther in distinguishing right and wrong; and, as the peasant is surpris'd to hear a language different from his own, and doubts whether they who use it possess the same faculties of reason with himself; so we are surpris'd to be told that men are pleas'd with what is offensive, or displeas'd

with what is agreeable to us, and doubt whether they have like sentiments of morality with us.

But, so far as actions are mere expressions, the choice of them, like that of words, is perfectly arbitrary; and nations may differ from each other in their external observances, as they do in their speech, without any inconvenience whatever. One nation commends what another condemns, merely because they interpret the same, or a like action, differently.

The diversities of manners arising from difference of choice or interpretation, render it difficult to judge of the merits or personal qualities of men, in ages or nations remote from our own.

The vulgar are able to interpret only the manners of their own condition and country; they commonly mistake those of a different rank, or of foreigners.

There is, in fact, nothing in external manners which opinion may not render agreeable or disagreeable; and the opinion of one country is not the rule or standard by which to judge of the manners of another.

The definitions of crimes vary in the law of different countries; because different overt acts are specified as the marks of guilt.

Terms of praise or blame have not their precise equivalent in different languages; because men combine variously, under different terms, the circumstances from which they infer merit or demerit.

This is consistent with a perfect agreement of opinion concerning any particular circumstance apart, as well as, in general, concerning what is good or evil, in the dispositions of men.

S E C T. XII.

Fundamental Laws of External Action.

1. **I**N matters indifferent, we ought to observe the manners of our country, as we speak its language, or wear its dress.

2. In matters of importance, we ought to chuse what is for the good of mankind, in opposition to opinion and custom.

Thus we ought to do whatever tends to inspire benevolence, to check malice, and to secure the rights of mankind; and ought to avoid whatever has a contrary effect, and whatever tends to make way for oppression.

When the habits or affections of men change for the better or the worse, they improve or degenerate.

When their customs change from what is innocent, or beneficial to mankind, to what is pernicious, they are said to undergo, not a change of manners merely, but to be depraved.

If they should be ignorant of the tendency of their own pernicious customs and manners, even this ignorance would be an article of depravity.

S E C T. XIII.

Of the different Sanctions under which External Actions are required or prohibited.

TH E sanction of any law is the good or ill annexed to the observance or to the neglect of it.

The general sanction of moral law is, that the observance of it is happiness, and the neglect is misery.

This sanction is variously modified in the case of external action, by considerations of force, or considerations of propriety, and inducements of choice. Hence,

1. The sanction of compulsory law.

2. The sanction of duty.

The sanctions of compulsory law are, any forcible means employed by men to vindicate their own rights, or those of others.

The sanctions of duty are, any considerations that determine men, from choice, to act properly.

S E C T. XIV.

*Of Parties to whom the Laws of
Morality refer.*

TH E laws of morality may be referred to the conduct of single parties, in respect to one another, or to the proceedings of collective bodies, in respect to their own members.

The conduct of single parties is required, or prohibited, either under the special sanctions of compulsory law, or under the sanctions of duty.

Conduct required or prohibited under the sanction of compulsory law, is the subject of jurisprudence.

Conduct required or prohibited under the sanction of duty, is the subject of casuistry.

Proceedings of collective bodies, in what affects the state and form of their community, is the subject of politics.

Communities stated in their relation to each other, are to be considered as single parties.

INSTITUTES
OF
MORAL PHILOSOPHY.

PART V.
OF JURISPRUDENCE.

CHAP. I.

Of the Foundations of Compulsory Law.

THE fundamental law of morality, in its first application to the actions of men, is prohibitory, and forbids the commission of wrongs.

Every person being entitled to defend himself and his fellow-creatures, may repel any wrong by force; and the prohibition of wrongs is the first compulsory law of nature.

Any article in the state of a man which may be maintained by force, is termed *his right*.

Jurisprudence consists of two parts.

The first relates to the rights; the second, to the defences of men.

C H A P. II.

Of the Rights of Men in general.

A Right is such a relation of the person to a thing, that no alteration ought to be made in it without his own consent.

The term *ought*, in this definition, implies a sentiment of moral obligation.

Things are the constituents of the person, or the constituents of a person's state.

A regard to the rights of men is comprehended in the law of self-preservation, combined with the law of society; or, in other words, this sentiment of right is inseparable from our disposition to preserve ourselves, and our fellow-creatures.

Wrong is a violation of right. The moral sentiment arising from a sense of wrong in our own case is exasperated by resentment; in that of others, is indignation, conceived on the perception of guilt in one, and of suffering in another.

No one can have a right to what is not possible, or not real.

The right of one man to any given thing, excludes the claim of another to the same thing.

CHAP.

C H A P. III.

The Law of Defence in general.

A Right may be maintained by any means that are effectual and necessary.

This law of defence includes three clauses:

1. That a wrong apprehended may be prevented.

2. That a wrong offered may be repelled.

3. That a damage done should be repaired.

C H A P. IV.

OF RIGHTS OF DIFFERENT DENOMINATIONS.

S E C T. I.

General Division.

RIGHTS may be considered in respect to their subject, or in respect to their source.

In the first respect, they are said to be personal, or real.

In the second, they are said to be original, or adventitious.

S E C T. II.

Of Rights Personal.

PERSONAL rights subsist in the person, and relate to the constituents of his nature.

Persons are said to be natural or artificial.

Persons natural are single men.

Persons artificial are corporations or states.

The rights of natural persons subsist in the limbs and members of the body, in the faculties and talents of the mind, and the uses of both.

The rights of artificial persons subfist in their constituent members, their forms, and their laws.

S E C T. III.

Of Rights Real.

REAL rights subfist in things of which any person may have the exclusive use.

Real rights may be referred to three principal heads:

Poffeffion, Property, and Command.

Poffeffion constitutes right only while a thing is in actual use.

Property constitutes a continual right.

No one can have a right of poffeffion to the property of another.

Command is a right to the fervices or obedience of other men.

S E C T. IV.

Of Original Rights.

ORIGINAL rights are the univerfal appurtenances of man's nature, and coeval with his being.

The personal rights of men are original.

If we suppose that nature authorizes whatever is necessary to the preservation of her works, the right of the parent to command the infant child is original; but, in every other instance, no man has an original right to force the obedience of another, except in obliging him to abstain or desist from wrongs.

S E C T. V.

Of Adventitious Rights.

ADVENTITIOUS rights are such as accrue variously to men in the course of human life.

Original rights are recognised on being mentioned.

Adventitious rights are matter of discussion, and recognised only so far as they are proved.

In treating of adventitious rights, we must not only enumerate their subjects, but likewise the means by which they may be acquired.

Possession, property, and command are adventitious rights.

The adventitious distinctions in society are founded, for the most part, on property and command.

C H A P. V.

Of the Laws of Acquisition in general.

NO right can be acquired by injustice; or, in other words, by any deed pernicious to mankind.

The means of acquiring any right may be referred to four principal heads:

Occupancy, Labor, Convention, and Forfeiture.

C H A P. VI.

Law of Occupancy.

OCCUPANCY is such a relation of a person to a thing, as that no other person can use the same thing, without detriment or molestation to the occupier.

In this manner, a person may occupy the ground on which he lies, the water he drinks, the air he breathes, the light that shines upon him, the tract of the sea on which he sails; but no one can occupy the earth, the passing stream, the atmosphere, the light of day, or the ocean.

CHAP. VII.

The Law of Acquisition by Labor.

LABOR is any effort by which a person may, for his own use, fabricate, procure, or improve any unappropriated subject.

The right acquired to the fruits of labor, is implied in the original right all men have to the use of their talents or faculties.

Prior to convention, men do not acquire rights by the observance of any form or ceremony that is of no effect; for the right acquired is only to the use of what is produced.

Mere accession, or what is not the effect of any care and labor, if there be no convention to the contrary, falls to the first occupier.

The increase of a man's flocks or herds, being the fruits of his care, is his property; but the accession of new lands or islands contiguous to his, falls to the first occupier.

A man, by laboring on another's property, cannot annul the other's right; on the contrary, the fruit of his labor, if it cannot be removed without damage to the principal subject, falls to the proprietor of that subject.

But a person who happens, *bona fide*, to employ his labor on the subject of another, may remove or enjoy the fruit of his labor, if this can be done without detriment or inconveniency to the other.

Civil conventions accommodate the effects of accession or of labor to the conveniency of parties, and to the policy of particular states.

C H A P. VIII.

THE LAWS OF ACQUISITION BY CONTRACT.

S E C T. I.

The Obligations of Contract.

A Contract is the engagement of parties to perform what is supposed to be in their power.

Engagements are made by promises.

Men, by nature, rely on the performance of promises.

The object of a promise or engagement becomes, to the person accepting of that promise, part of his state; breach of faith is an injury, and he is entitled to repel it by force.

Here the compulsory law of Nature, which, in its original form, is prohibitory, or negative, becomes, in appearance, positive, requiring some actual performance; but the object of law is nevertheless a mere prevention of that wrong, which a breach of faith would constitute.

S E C T. II.

Laws of Contract in general.

1. **T**HE source of conventional obligation, is the right of one party to exact a performance upon which another has made him rely.

2. Contracts, therefore, create right only to what depends on the will of contracting parties.

3. To constitute a contract, mutual promises, or a promise and acceptance, are necessary between parties, acting freely, and possessed of the use of their reason.

Although one party has promised, if the other has not accepted, the last cannot pretend to have an expectation raised.

But mutual promise implies acceptance.

Men who are known to be under restraint or insanity, cannot raise any reasonable expectation.

4. A party may stipulate in person, or by his agent or messenger, in words, actions, or signs, that are understood.

5. A person is bound by the stipulations of a servant or messenger, to whom he has given

credentials, or whom he has authorized by sufficient acknowledgments of his trust.

6. Words are to be interpreted in their most ordinary sense, or in the sense in which it appears from other signs that they were intended to be used.

7. An action of any kind, performed with a view to raise expectation, or by which it is known that expectations are naturally raised, is sufficient to constitute a contract.

8. Custom is a reasonable ground of expectation; and therefore is binding on all parties.

Great part of the civil conventions of men are constituted by the received customs of their country.

A practice introduced by force may become a legal custom: for being such as men are reconcileable to, after they are reconciled, and continue to observe it voluntarily, it becomes a matter of convention.

But practices, or sufferings, to which men are not reconcileable, and with which they are made to comply by force, are usurpations, and never can, on the foot of consuetude, be considered as matter of convention.

S E C T. III.

Contracts of different denominations.

CONTRACTS may be distinguished as absolute, or conditional; and as single, or reciprocal.

Absolute contracts are constituted by a simple promise and acceptance.

Conditional contracts express promise and acceptance under a condition.

Single contracts consist in the promise of one party, and acceptance of the other.

Here one party is promising, the other accepting.

Reciprocal contracts consist of mutual promises, and mutual acceptance.

Here each party is both promising and accepting.

S E C T. IV.

Of the Exceptions to Contracts in general.

ANY promise given is rendered void, by the exceptions of force, fraud, injustice, or impossibility.

FIRST EXCEPTION.

Force is constituted by actual violence, or menaces, employed by the accepting party.

This exception is valid.

1. Because a person extorting a promise by force, cannot have a reasonable expectation of its performance being intended.

2. Because the party offering force commits an injury; and instead of acquiring a right, may be prevented, repelled, or obliged to make reparation.

N. B. This exception does not extend to the case of contracts entered into with one party, on account of the violence offered by another.

Nor is this exception admitted by the practice of nations in the case of any surrender at war, or military capitulation.

SECOND EXCEPTION.

Fraud is constituted by the deceit which a party employs to obtain a promise.

This exception is valid,

1. Because a party who is known to be deceived concerning what he promises, cannot raise an expectation that he will perform when undeceived.

2. Because deceit, or imposition, is an injury, and gives a title to reparation.

N. B. This exception does not invalidate the promise made to an innocent party in consequence of the misinformation of another.

Nor does it invalidate any military capitulation, though obtained by stratagem.

THIRD EXCEPTION.

Injustice consists in the wrong which a third party would suffer from the performance of a contract.

There are four different cases in which this exception may be offered:

Case 1. When neither of the contracting parties was aware of the wrong.

In this case the contract is simply void.

Case 2. When only the party accepting was aware of the wrong.

In this case, the contract is void; and the party accepting has committed an injury against the party promising, as well as against the third party, who, if the contract had taken effect, was likely to have suffered.

Case 3. When only the party promising was aware of the wrong.

If he promised with intention to perform, he is injurious to the third party concerned.

If he promised with intention to plead the exception, he is injurious to the party accepting.

Case 4. When both parties were aware of the injustice.

Both are injurious to the third party concerned.

FOURTH EXCEPTION.

Impossibility extends to every case that cannot, in the nature of things, take place; to every article that exceeds the power, or that does not depend on the will, of the parties.

This exception, like the former, may be offered in four cases.

Case 1. When neither contracting party was aware of the impossibility.

The contract is simply void.

Case 2. When only the party accepting was aware of the impossibility. —

This conduct is either irrational, or may be injurious to the party promising, by drawing him into snares and fruitless attempts.

Case 3. When only the party promising was aware of the impossibility. —

It is injurious to the accepting party, by creating vain expectations.

The 4th case, Supposing both parties aware of the impossibility, is altogether irrational and absurd.

S E C T. V.

Exceptions peculiar to Conditional and Reciprocal Contracts.

ALL conditional contracts are void, if the condition has failed, or is found to be unjust or impossible.

The condition may be a mere contingency, or it may depend on the will of either party.

If a contingency, the parties may be allowed to interpose, as they do in games of skill and dexterity.

Or they may not be allowed to interpose, as in games of chance.

If the condition depend on the will of the party promising, he becomes bound to perform one action, only, in consequence of having performed another.

If

If it depend on the will of the accepting party, he acquires a right only in case of having performed his condition.

In mutual contracts, a party failing on his part, has no title to exact performance on the other part.

W H E N E V E R has done an injury is bound to repair it in this manner, the injurious person may have forfeited to another what was formerly his own right. No man can forfeit by actions casual and involuntary. Such actions, when prejudicial to others, are mistakes, not injuries.

Of Property.

It is a maxim, that every man has a right to his property, and that no man can be deprived of it without his consent. The effect of prescription is to transfer property from one person to another.

Property may be transferred by gift, or by sale, or by exchange, or by inheritance.

A convention transferring property is called a contract.

Every man has a right to his property, and no man can be deprived of it without his consent.

The effect of prescription is to transfer property from one person to another.

Property may be transferred by gift, or by sale, or by exchange, or by inheritance.

C H A P. IX.

Of the Law of Acquisition by Forfeiture.

WH O E V E R has done an injury is bound to repair it. In this manner, the injurious person may have forfeited to another what was formerly his own right.

No man can forfeit by actions casual and involuntary. Such actions, when prejudicial to others, are misfortunes, not injuries.

The condition may be a mere contingency, or it may depend on the will of either party.

If a contingency, the parties may be allowed to interpose, as they do in games of skill and dexterity.

Or they may not be allowed to interpose, as in games of chance.

If the condition depend on the will of the party promising, he becomes bound to perform one action, only, in consequence of having performed another.

С Н А Р. X.

OF THE LAW OF ACQUISITION, AS APPLICABLE
TO PARTICULAR RIGHTS.

С Е С Т. I.

Of Possession.

THIS is acquired by occupancy alone.

С Е С Т. II.

Of Property.

THIS is acquired, to any subject formerly unappropriated, by labor alone.

The effect of prescription in civil society, results from convention, not from occupancy.

Property may be transferred by convention or forfeiture.

A convention transferring property, is a conveyance.

A conveyance consists of consent and delivery.

A party who has obtained consent without delivery, may defend, or occupy, the subject, in right of the former proprietor, not in his own.

Hence it is argued, that the mere consent of a party deceased, without delivery, cannot convey property; because the party deceased having no right, the subject falls to the first occupier.

The force of last wills is an effect of convention among the living, not of right surviving the dead.

S E C T. III.

Of the Right to Command.

TH E right to command is acquired by contract or forfeiture.

The contract between the master and hired servant is a reciprocal contract.

The terms are such as they mutually stipulate, or such as known customs establish.

The civil contract or convention between the magistrate and subject, or sovereign and people, is likewise reciprocal.

The terms are such as the parties stipulate in express charters and statutes, or such as may be ascertained from known customs.

The social compact, from which, according to some writers, all the mutual duties of

men in society are derived, is a mere fiction in theory, resembling the fiction in law, by which a plea which arises from one source, is sustained as coming from another.

Thus mutual pleas of guardian and ward, which arose from equity, were sustained in the Roman law as arising from contract.

There never was in reality any contract prior to the establishment of society. Customs, charters, and statutes, which constitute or express the civil conventions of men, are all posterior to the establishment of society.

Fictions of law may be convenient in arranging civil actions, but are of no use in explaining the laws of nature; for by the law of nature, every right, and every obligation, is admitted only where it is real, and can receive no confirmation from any fiction whatever.

The original rights of men, founded in humanity, and in the title of every person to defend himself, are so far from gaining force by being referred to a supposed convention, that they are actually weakened.

Men are equally sensible of their obligation to abstain from wrong of any kind, as from breach of faith. The obligation to abstain from breach of faith, is actually comprehended in

the more general obligation to abstain from harm of any kind.

A right to command is sometimes acquired by forfeiture, when a person who has done a wrong, becomes bound to repair it by his services.

No contract or forfeiture can deprive a man of all his rights, or render him the property of another.

No one is born a slave; because every one is born with all his original rights.

No one can become a slave; because no one, from being a person, can, in the language of the Roman law, become a thing, or subject of property.

The supposed property of the master in the slave, therefore, is matter of usurpation, not of right.

CHAP. XI.

OF THE LAW OF DEFENCE.

SECT. I.

Of the Means of Defence in general.

By the law of defence, a person may maintain his right against any other person who wrongs, or is likely to wrong him, by any means that are necessary for this purpose.

The means of defence may be referred to three principal heads:

Perfuation, Artifice, and Force.

The law of defence does not authorize the use of any means that are unnecessarily hurtful to the party against whom they are employed.

A man is entitled only to preserve his own right: Whatever harm he does beyond what is necessary for this purpose, is an injury.

The law of defence may be applied to persons in three different cases:

1. That of single parties supposed strangers, and unconnected.
2. That of fellow-citizens.
3. That of nations.

S E C T. II.

The case of Single Parties Strangers to each other, or unconnected.

THIS case is commonly treated of under the title of the state of nature; and in this state every man is supposed unconnected with all men.

It is absurd to entitle that the state of nature to which men are not naturally disposed, and in which they most certainly never were known.

It is a mere supposition, under which certain applications of the law of nature may be abstractly considered.

Writers have not recollected, that it was sufficient for the purpose of their reasonings, to suppose any two or more parties unconnected with one another, though not unconnected with all mankind.

Such parties are possessed of their original rights; but having no convention, can have none of those rights, and none of those obligations, which arise from convention alone.

If either party should commit an injury against the other, the injured would be entitled to his defence.

It is vain to ask, who is to judge between them; for all reference to judges is excluded by the supposition.

They must act and judge for themselves; and where persuasion and artifice have failed, or are not likely to succeed, may employ force, but still upon the supposition that they employ it only in defence of their right.

S E C T. III.

The Case of Fellow-Citizens.

FELLOW-citizens are connected by civil and political conventions; on which are founded a variety of adventitious obligations and rights.

The obligations of fellow-citizens are either those of fellow-subjects, or of magistrate and subject.

Fellow-subjects have stipulated to refer their differences to the judgment of courts, and to employ, in their defence, the power of the magistrate.

This law admits of the following exceptions :

1. Where the judgment of courts cannot be had , nor the power of the magistrate interposed , to prevent an injury.

2. Where the relief by civil suit cannot be adequate to the injury apprehended.

Judges are bound to decide according to law and justice.

Magistrates are bound to defend the rights of the subject.

The magistrate , as acting in defence of the state , and of its subjects , is entitled to repress crimes by restraints and punishments.

He is directed , in the application of restraints and punishments , by the law of nature , and of convention.

The law of nature , where there is no convention to the contrary , limits the power of the magistrate to what is necessary to defend the innocent. All restraints or severities employed beyond these limits are unlawful.

It is not always expedient , in civil society , to carry punishment to the utmost rigor even of natural law.

The laws of convention are various in different states ; in some nations permitting arbitrary imprisonment , unlimited severities , and

tortures, for every crime, at the discretion of the magistrate.

Powers of this sort are frequently usurpations on the part of the magistrate, not his rights.

The rights of the subject are in danger, when the magistrate either adopts a rule that is unjust, or when his decisions are irregular and arbitrary.

S E C T. I V.

The Case of Nations.

AMONG nations, the act of the sovereign, or of those employed by the sovereign, is considered as the act of the nation.

The act of any private person is not the act of the state, except so far as, in his action, he is protected or acknowledged by the state.

A nation may receive an injury in the person of any of its members.

A nation injured, may make reprisals on the persons and effects of any, or all the subjects of the offending nation.

Nations who maintain controverted rights by artifice or by force, are said to be in a state of war.

War is just only on the supposition of injuries apprehended, offered, or perpetrated.

Remonstrances and declarations, wherever they can be safely employed, should precede hostilities.

The immediate object of war is victory.

The laws of war previous to victory are,

1. Such hostilities only are lawful as are necessary to obtain the victory.

2. Wherever it is safe to grant an enemy quarter, it is not lawful to refuse it.

3. Breach of faith is exploded in the practice of nations at war, and would be ruinous to mankind.

4. Any party may assist the injured; but whoever assists the injurious, may be treated as an enemy.

5. The Person or effects of an enemy, wherever found, may be seized, if this can be done without detriment to any innocent party.

6. The effects of a friend going to an enemy, if they would enable him better to carry on the war, may be seized.

7. Captives may be detained while the war continues, and until satisfaction and security be obtained.

Laws of war after victory:

1. The conqueror may avail himself of his power to preserve his rights, and obtain reparation of a wrong that has been done him.

2. Success in war does not constitute a right; but damages and suffering incurred in war give a title to indemnification.

3. The conqueror may take such precautions, by disabling his enemy, as give him a proper degree of security for the future.

4. Nations do not acquire a property in the persons of their captives, as they do in effects lawfully seized.

S E C T. V.

Conclusion of Jurisprudence.

BY the maxims of compulsory law, a person may, on every occasion, maintain his right: But from considerations of duty, he is, on many occasions, obliged to forego it.

A person is more concerned to maintain and to exercise the affections of a beneficent mind, than he is to preserve his condition in any other respect.

The conventional laws of society, in some instances, as well as the law of humanity, admit, that the extreme necessity of one party may supersede the right of another.

INSTITUTES OF MORAL PHILOSOPHY.

PART VI. OF CASUISTRY.

CHAP. I. *Of the Sanctions of Duty in general.*

A LAW of duty is an expreffion of what a person ought to do from choice; and in doing which, he is faid to have merit; or in doing the contrary, to have demerit.

The first application of the fundamental law of morality is prohibitory, forbidding the commiffion of wrongs.

The fecond is pofitive, requiring every external effect of virtue, or of good-will to mankind.

But acts of good-will or beneficence cannot be extorted by force.

The object of compulsory law, is the preservation of parties exposed to wrongs; who, in defending themselves, may, even by force, oblige others to desist from injuries.

The object of morality, in what relates to the duties of men, is the virtue of those who act.

Compulsion would alienate the affections of men.

Favors extorted by force would be robberies.

Whoever employs deception or force, except in his own defence, or in that of his fellow-creatures, commits an injury.

The sanctions of duty, are those of religion, of public repute, and of conscience.

CHAP. II.

Of the Sanction of Religion.

RELIGION is the sentiment of the mind relating to God.

The sanction of religion is its tendency to influence men's conduct.

This tendency is of two kinds.

The first is, to make men love wisdom and beneficence, as being the characteristics of the Supreme Being, whom they adore; and to make them love their situations and their duties, as being appointed by Providence.

The second is, to make them hope for rewards, and to fear punishments.

The religious doctrine of rewards and punishments is a species of compulsory law, extending to all the thoughts and inclinations, as well as the actions of men.

This law, in all its extent, can be safely applied by every person only to himself.

When magistrates think themselves armed with the sanction of religion, and entitled to

restrain thoughts as well as actions, they attempt what is placed beyond the reach of their power.

Superstition, or the abuse of religion, has been accompanied with very fatal effects :

With a misapplication of moral esteem, and the substitution of frivolous rites for moral duties ; with cruel animosities of party, and a false apprehension of sanctity in any acts of injustice and horror that proceed from a supposed religious zeal.

CHAP. III.

The Sanctions of Public Repute.

THESE sanctions include the influence of prevailing opinions and examples, together with the commendations and censures men bestow on the actions that please or offend them.

The influence of prevailing opinions and examples, arises from the social nature of man; and is one condition by which men are fitted to act in companies and societies.

The tendency of this influence is good or evil, according to the nature of the opinions or examples that prevail.

Nothing distinguishes men of a happy nature more than that force with which they are sometimes able to correct false opinions, and with which they are always able to resist their contagion.

It is part in the social nature of man, to desire praise, and to shun blame.

This puts it in the power of every person to reward actions agreeable, and to punish actions disagreeable to himself: But as commendation and censure are frequently ill distributed, it is a great weakness to be guided chiefly by such considerations.

CHAP. IV.

Of the Sanctions of Conscience.

THIS sanction is constituted by the satisfaction men have in doing right, and the shame or remorse which arises from having done wrong.

Men being desirous of personal excellencies, and averse to personal defects, have satisfaction in actions that tend to the purposes of virtue.

They feel remorse or shame for actions that tend to the purposes of vice.

The sentiments of conscience are frequently blended with those of superstition or custom, and, like them, are subject to error.

It is the object of casuistry to prevent, or to correct such errors, by pointing out the real tendencies of virtue and of vice in external actions.

C H A P. V.

OF THE TENDENCY OF VIRTUE IN EXTERNAL
ACTIONS ¹.

S E C T. I.

Of the different branches of Virtue.

IT has been observed, that a fool can neither come into company, nor go out of it; can neither sit, stand, nor walk, like a man of sense ². It may be said likewise, that a knave can do nothing like a man of probity.

The law of external action is so essential to morality, that men very frequently confine the whole of morality to this law.

But virtue is, in reality, a qualification of the mind, although the term equivalent to *virtue*, in every language, implies all the required effects and appearances of this qualification.

Its constituents are, Disposition, Skill, Application, and Force.

¹ Cicero de officiis, lib. 1.

² Maxims of La Bruyere.

Corresponding to the number of these constituents, virtue has been divided into four capital branches, called the *Cardinal Virtues*.

These are, *Justice*, *Prudence*, *Temperance*, and *Fortitude* ³.

Justice, is the regard shown to the rights and happiness of mankind.

Those effects of justice which mere innocence implies, are required under the sanction of compulsory law.

Those that constitute beneficence, are required under the sanctions of duty only.

Prudence is that discernment by which men distinguish the value of ends, and the fitness of means to obtain them.

Without this qualification, men are not fitted to act with any measure of steadiness, consistency, or good effect.

Temperance is abstinence from inferior pleasures or amusements that mislead our pursuits.

No one can apply himself effectually to any worthy purpose, who is liable to the interruption of mean pleasures or amusements, that

³ This division is so natural, that it has always presented itself when we have treated of the felicity or excellence competent to man's nature.

occupy an improper part of his time, that stifle his affections, or impair his faculties.

The maxim of temperance is, that a person, having once ascertained what his best and happiest engagements are, ought to count every moment lost, that, without necessity, is otherwise employed.

Fortitude is the power to withstand opposition, difficulty, and danger.

All the good qualities of men have a reference to some effect that is to be produced, and have a merit proportioned to some difficulty that is overcome. Hence dispositions and capacities of any sort are of no avail, without resolution, and force of mind.

S E C T. II.

Of Duties referred to Probity or Justice.

DUTIES referred to probity, are either private or public.

THE private duties are, *Innocence, Candor, Piety, Friendship, Gratitude, Liberality, Charity, Civility, and Politeness.*

Innocence has been observed to be the object of compulsory law, and is the most indispensable characteristic of probity.

It implies, beside other effects, *Veracity* and *Faithfulness*: the first opposed to deceit; the second, to perfidy.

Candor is the just allowance given to the pretensions or merits of other men, in opposition to prejudice, or to the suggestions of interest.

Piety is the exercise of veneration and love; first, towards God; next, towards those who by nature or choice are proper objects of our respect and affection.

The expressions of piety to God are either fixed or arbitrary.

Its fixed expressions are acts of beneficence, which concur with the providence of God in promoting the good of his creatures.

Its arbitrary expressions are the different rites established in different countries.

Friendship is the beneficence of private parties, proceeding from motives of particular esteem and attachment.

This includes the reciprocal duties of parent and child. Of husband and wife, and of all other private relations.

The duties of the parent are, to maintain, to protect, to educate, his child; and, as far as he is able, to establish and to secure his state or condition.

The duties of the child are, obedience, deference, and gratitude.

Many of the duties of husband and wife are conventional; and, as such, are matter of strict law; but the observance of them must proceed from the heart.

Consanguinity is a natural tie. The fortunes of men are commonly involved in those of their family; and relations are, on account of this connexion, among the first or nearest objects of beneficence.

Gratitude is the return made for favors received.

Men of probity are neither ungrateful nor jealous of ingratitude in others.

To require a base action under the title of gratitude, is to forfeit the title of benefactor.

The returns due from the grateful, cannot be ascertained by any precise measure, nor can they be exacted by force.

The intention of the benefactor is more to be regarded, than the value of his benefit.

Were it established, that returns could be exacted by force, it would follow, that benefits could not be distinguished from fees, nor the effects of gratitude from those of constraint.

The ingratitude of mankind is sometimes alledged as an excuse for neglecting good offices; but it is the business of a man to perform his own part, not to answer for the returns which others may, or may not, be disposed to make.

Liberality is the free communication of what is ours, to oblige others.

Charity is the free communication of what is ours, to relieve the distressed.

Undistinguishing charity is pernicious in trading nations.

It is a wise maxim in trading nations, That no person able to earn his bread should be maintained gratuitously.

But charity to those who have no bread, and are unable to earn any, is a duty of the strongest obligation, and a very important object of public concern.

Civility is a guarded behaviour in the ordinary intercourse of society, to avoid giving offence.

Politeness is a behaviour intended to please, or to oblige.

Civility and politeness are comprehended in the general character of good breeding.

To be well bred, a man must possess discernment, candor, and good will; at least a sincere aversion to offend. The effects of affectation or design are easily distinguished.

Ill-bred men sometimes affect great politeness, but they shock and mortify those they pretend to oblige.

Flattery, excessive or insincere professions, are vicious.

The sentiments of the heart sometimes evaporate in words; and great professions are, even without any intention to deceive, put in place of benefits.

The public duties of probity are, *Allegiance* on the part of the subject, *Protection* on the part of the magistrate, and *Public Spirit* in all parties.

The *Allegiance* of the subject, is the fidelity, deference, and submission, he owes to the magistrate.

The *Protection* due from the magistrate, is the interposition of power to preserve the peace, and to secure the subject in the possession of all his rights.

The *Public Spirit* due from every member of any community is,

1. A faithful discharge of any office intrusted for the public good.

2. A continual preference of public safety, and public good, to separate interests, or partial considerations.

S E C T. III.

Duties referred to Prudence.

IT is the object of prudence, to direct a man in what he is to wish for himself, for his friend, for his country, and for mankind.

In this sense, prudence is the guide or directory in every duty: But, in its more limited acceptation, it refers more particularly to the duties which affect a man's state or condition.

These duties may be referred to the following heads: *Decency, Propriety, Modesty, Oeconomy, Decision, and Caution.*

Decency is the agreeableness of a person's appearance and carriage to the sense and opinion of other men.

The rules of decency are prohibitory, and forbid whatever would offend, in nudity, filth, or obscenity.

Propriety is the suitableness of a person's behaviour to his nature, his age, his station, and rank.

There is in all the external effects of virtue, as being suitable to man's nature, a propriety that may be considered apart from their other recommendations.

Diffidence, and a cautious approach to the manners and pretensions of manhood, are proper to youth.

Resolution is proper to manhood.

Calmness and *Deliberation* to age.

Dignity and *Reserve*, without contemptuousness or petulance, are proper to men of high station.

Deference, without servility, is proper to men of inferior rank.

Modesty is a proper reserve on every subject of self-estimation.

It forbids ostentation of what we possess, of what we have done, or of what we have suffered.

Oeconomy is the proper adjustment of a person's expense to his fortune.

Where fortune constitutes rank and power, oeconomy is required to preserve independence and freedom.

Sensuality and gaming are adverse to good oeconomy.

Decision is a seasonable and resolute choice of what a person ought to do.

In some cases, hesitation is equal to a total purpose of inaction. Every opportunity is lost, and every measure comes too late.

Caution consists in a proper attention to all the difficulties that may occur in what a person undertakes.

The great objects of caution are, not to engage in what is above our strength, nor to commit ourselves to persons that mislead or deceive.

S E C T. IV.

Duties referred to Temperance.

DUTIES referred to temperance may be comprehended under the heads of *Sobriety* and *Application*.

Sobriety is the moderate use of food, and of other animal gratifications.

The general tendency of sensuality, is to beget habits of sloth, and neglect of affairs.

The immoderate use of intoxicating drugs, or liquors, have these effects in a high degree. It reconciles men, otherwise of an active disposition, to inoccupation and idleness.

The debauch of the sexes being sometimes joined with passion, may occasion a continued or habitual neglect of affairs.

Application is the preference of business to amusement.

Business is supposed to terminate in some serious purpose; amusement in mere pastime.

Dissipation is a weakness of the mind, disabling it from chusing or prosecuting the occupations that would engage it most effectually, and with most advantage.

S E C T. V.

Duties referred to Fortitude.

THE duties referred to fortitude are, *Patience, Intrepidity, and Constancy.*

Patience is the calm and deliberate suffering of any trouble or pain that occurs in human life.

Peevishness, the reverse of patience, tends to realize imaginary evils, and to increase what is real.

Intrepidity is firmness, and presence of mind, in the midst of dangers.

Intrepidity is frequently the greatest security in danger.

Constancy is perseverance in all pursuits or engagements properly chosen.

The wavering are seldom capable of executing any purpose.

S E C T. VI.

Uses of Casuistry.

TH E rules of casuistry cannot supersede the judgment and good disposition of a virtuous mind.

Attempts to give casuistry this consequence, proceed from superstition, and tend to confirm the most slavish superstition, by multiplying external observances, that mislead the attention, from qualities of the heart, to matters of form.

Good disposition is necessary to the happiness of mankind; and dutiful conduct naturally results from good disposition.

It is however of moment to anticipate, in general rules, the external effects of virtue.

These rules render the description of virtue itself more particular, and more complete. Being supported by the sanctions of religion, and of public repute, the rules of duty may procure to society the benefit of useful actions, even where they do not procure to the person acting the happiness of a virtuous disposition.

S E C T. VII.

Of Merit and Demerit.

ACTIONS are said to have merit or demerit, according to the nature and degree of the moral quality they bear.

Actions that express good-will to mankind in the highest degree, have the highest merit.

Hence beneficent actions performed in the face of dangers, difficulties, and personal sufferings, are allowed to have the highest merit.

Actions that proceed from malice, and give examples of mischiefs done without inducement or provocation, are of the highest demerit.

We express our sense of demerit in the different degrees of crimes, offences, and faults.

A crime is an injury done from malice, jealousy, revenge, avarice, or some other passion that sets mankind at variance.

An offence is a wrong done in the gratification of some passion in its own nature consistent with amity.

A fault is a wrong done from inattention or ignorance.

Faults of inattention are culpable in proportion to the moment and importance of the subject.

Faults of ignorance are more or less culpable, as the defect of knowledge argues neglect and inattention.

It is a general maxim, That ignorance of the fact may be admitted as a plea of innocence; but not ignorance of the law.

Ignorance of natural law, or of duty, would be one of the greatest defects of a rational nature.

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INSTITUTES
OF
MORAL PHILOSOPHY.

PART VII.
OF POLITICS.

CHAP. I.

Introduction.

IT appears from the history of mankind, that men have always acted in troops and companies; that they have apprehended a good of the community, as well as of the individual; that while they practise arts, each for his own preservation, they institute political forms, and unite their forces, for common safety.

It may be proved, that most of the opinions, habits, and pursuits, of men, result from the state of their society; that men are happy in proportion as they love mankind; that their rights and their duties are relative to each other;

and, therefore, that their most important concerns are to be found in their mutual relations, and in the state of their communities.

One great department, therefore, in which the love of mankind may operate most effectually, yet remains to be considered in the policy or establishment of nations.

A nation is any independent company or society of men acting under a common direction.

The united force of numbers, and the direction under which they act, is termed *the state*.

Nations are happy who are composed of happy men.

Nations are wretched who are composed of unhappy men.

Nations may be considered in respect to their resources, or in respect to their institutions.

National resources are the objects of public oeconomy.

National institutions are the objects of political law.

CHAP. II.

OF PUBLIC OECONOMY.

SECT. I.

Of National Resources in general.

NATIONAL resources include every article that tends to constitute the strength of a nation, or that may be employed for its preservation.

Such articles may be referred to three principal heads; People, Wealth, and Revenue.

Some of these have been already considered, in respect to the fact, or in respect to the course which mankind actually hold in the treatment of them.

They are now to be considered in respect to their absolute and comparative value, and in respect to the means by which they are best preserved or advanced.

S E C T. II.

Of Populoufness.

TH E value of numbers is proportioned to their union and character.

Numbers without union or virtue, do not constitute firength.

A people, in confequence of their numbers, fometimes become difunited and corrupted.

If they inhabit a large and extenfive territory, they are difunited, and lofe fight of their community. A few engrofs the management of public affairs, and with-hold from the many every fubject of public zeal, or political occupation. The greater part are thrown into a ftate of languor and obfcurity, and fuffer themfelves to become a prey to thofe who are prepared to invade their rights.

Human nature, in ftates of a moderate extent, has prospered and excelled; but in ftates overgrown, has generally declined and degenerated.

If great numbers be crowded into narrow diftricts, or cities, they are expofed to corruption, become profligate, licentious, feditious,

and incapable of government or public affections.

The union of a people depends on the arrangements or dispositions made to employ them where the public service requires.

The union of the people in republics, arises more from their affection to the community, than from the power established to enforce their services.

In monarchies, it arises from the love of personal dignities, to which individuals aspire in serving the state.

In despotism, it arises entirely from the power that is prepared to enforce the services of the people.

The character of a people, considered as a national resource, is to be estimated from their fitness to reap, and to preserve, or to improve the advantages of their constitution, and to support their country in pursuit of its objects.

Different characters are required under different forms of government.

Under republics of every sort, high degrees of probity are required; under monarchy, less; and under despotism, least of all.

The principal objects in every state, next to the political constitution, are defence and commerce.

In respect to defence, men are to be estimated by their hardiness, courage, and discipline.

In respect to commerce, men are to be estimated by their industry, and by their skill in profitable arts.

Commercial nations may value accessions of art, as the surest means of gaining accessions of people; for, in circumstances otherwise favorable, population keeps pace with the arts, and means of subsistence.

Institutions that, by securing property, and by preventing oppression, encourage the settlement of families, and facilitate the rearing of children, are the most favorable to population.

S E C T. III.

Of Riches or Wealth.

MEN are supposed rich in possessing the means of defence, subsistence, accommodation, and ornament.

Wealth is a national resource, because it may be employed in maintaining useful or serviceable men, and in supplying the exigencies of state.

The constituents of wealth may be considered in respect to their value, and in respect to their price.

As the use of wealth is to maintain and accommodate men, articles or commodities are valuable in proportion to the numbers they are fit to maintain and accommodate.

The means of subsistence are necessary.

The means of accommodation which contribute to the preservation of men, and to the increase of their vigor and health, are next in value to the necessities of life.

But articles of mere ornament are of no value at all.

The luxury of a people is to be estimated from their consumption of mere ornaments.

The price of a commodity is measured by the quantity of any other commodity that is commonly or occasionally given in exchange for it.

Price is most commonly expressed, and paid, in money.

Hence money is considered as the equivalent of all commodities, and the constituent of wealth.

But commodities are no less the equivalents of money; and abundance in any one

species, whether of money or other commodity, will buy a participation in the whole.

The price of commodities fluctuates, and keeps pace with the quantity of money in circulation, with the scarcity of the commodity, with the demand, and with the riches of those who consume it.

Articles of ornament are frequently of the greatest price.

Commodities that are the work of labor, time, and skill, cannot continue to be sold for less than will maintain the workman, and pay the whole of his advance.

As the value of commodities is measured by the numbers they may maintain, so the cost of a commodity may be estimated by the numbers and time employed in producing it.

The wealth of any country is proportioned to its natural advantages, to the industry and skill of its inhabitants, and to the profit of its trade.

Natural advantages are, good climate, fertile soil, and useful materials.

Industry and skill comprehend all useful arts, agriculture, and manufacture, in all their branches.

The profit of trade is the profit either of the consumer, of the producer, of the merchant, or of the state.

The profit of the consumer consists in being supplied with necessary or useful commodities;

The profit of the producer, in the vent of superfluities;

The profit of the merchant, in the balance remaining, after he has paid cost and expenses;

The profit of the state, in the increase of wealth, or the accumulation of commodities in the possession of its members.

Commerce, by accommodating all parties with what they want in exchange for what they can spare, enables and encourages them to increase their produce.

Commerce respecting the state, is either internal or foreign.

Internal commerce is the exchange of commodities between subjects of the same state.

Foreign commerce is the exchange of commodities between subjects of different states.

In states of considerable extent, the internal commerce is of more consequence than the foreign commerce.

The importance of foreign commerce diminishes as the state extends.

Commerce between nations may be considered in respect to the balance of price, or the balance of value.

The balance of price commonly stands for the difference supposed to remain due by one nation to another, after appretiating the whole goods that have passed in exchange between them.

The balance of value is the difference of real value in the whole goods that have passed in exchange.

The profits of foreign commerce are determined by the balance of value, not by the balance of price.

The nation that has the balance of price against it, may have the balance of value in its favor. It may have received the means of defence, of improving its land, or of extending its trade, &c.

The nation that owes the balance of price, will be obliged to part with its money, or some other commodity, in order to pay that balance.

A trade in which a balance of price is incurred, cannot be continued, unless there be a continual supply of money, or other commodity, by which the balance may be paid.

The produce of land is a continual, and may be made an increasing supply.

The produce of mines, or the importation of money, may be continual.

Nations who carry on any part of their internal trade by credit and bills, need proportionally less supplies of money.

The use of bills in circulation tends to extend credit.

Credit is useful or pernicious, according to the use that is made of it.

It is useful to an industrious and thriving people.

It is pernicious to the spendthrift and the prodigal.

The expense of remitting money from one country to another, affects the exchange of their coins.

That nation which has occasion to remit most money, must pay this expense, and is said to have the exchange against it.

But as money may be remitted to make profit, it does not follow from the state of exchange, that a nation is either gainer or loser by trade.

The profits of trade are either mutual or partial.

They are mutual, so far as commerce accommodates all parties with what they want, in exchange for what they can spare; and enables every party to improve his peculiar materials, and to pursue his peculiar art; and procures to the merchant and carrier an adequate reward for their trouble.

In commerce mutually beneficial, that party gains most who receives the more useful commodity; and who receives the produce of much land, time, and labor, for the produce of less; and who, in conducting his trade, is employed in the more healthful and least corrupting occupations.

The profit of trade is partial, when things of value are exchanged for things of no value.

The following are laws of commerce, founded in the preceding considerations.

1. That, where profits are mutual, commerce should not be restrained by either party.

2. That, if we suppose a trade to terminate in giving the means of accommodation and subsistence in exchange for mere ornaments, such trade may be wisely restrained by the losing party.

3. That monopolies are pernicious to commerce.

4. That

4. That the state of a nation's wealth is not to be estimated from the state of its coffers, granaries, or warehouses, at any particular time; but from the fertility of its lands, from the numbers, frugality, industry, and skill of its people.

S E C T. IV.

Of Revenue.

THAT part of national wealth which is allotted for purposes of state, is the public revenue.

The public revenue may arise from demesne and unappropriated subjects, or from taxes.

The first is the earliest species of revenue in rude nations, and is suited to their indolence, and ignorance of lucrative arts.

The second is better suited to the industry and skill of commercial nations.

It is not the interest of commercial nations, that any subject should remain unappropriated. While a subject remains unappropriated, it is commonly neglected.

Revenue arising from taxation, may increase together with the numbers, wealth, and frugality of the people.

In judging of the absolute or comparative expediency of different taxes, the following axioms may be admitted.

1. That the exigencies of the state must be provided for at any hazard or expence to the subject.

2. That, in levying taxes, no subject be unnecessarily burdened.

3. That the security of the subject, or that of his property, be not impaired.

4. That taxes which check settlement and industry be avoided.

5. That taxes least felt as grievances be preferred.

6. That the least burdensome method of collecting taxes be chosen.

N. B. The method of farm appears, from experience, to be more burdensome than that of revenue-office.

Taxes may be referred to four general heads:

Capitation, Assessment, Customs, and Excise.

Capitation is a tax on the person, and falling equally on the poor and the rich.

Capitation may be oppressive to the poor, without levying from the rich what they are able to furnish to the state.

Capitation is a symptom of despotic and oppressive government.

Assessment is a tax on riches; and is proportioned to the estate assessed.

Assessments may fall equitably, when property is unequally distributed.

Land-estate being most easily ascertained and valued, is the properest subject of assessment.

The stock of the merchant is fluctuating; and attempts made to ascertain it might give occasion to frauds, or improperly disclose the secrets of trade.

Customs are taxes imposed on goods in commerce, and advanced by the merchant.

Customs imposed on the necessaries of life, are a tax on the poor, and have the effects of capitation.

Customs imposed on matters of ornament, or costly accommodation, are a tax on the prodigal, or the rich.

Such taxes are most agreeable to humanity and justice.

Customs are an encumbrance on trade, and may amount to a prohibition of particular articles.

Customs, though advanced by the merchant, fall on the consumer; but being involved in the price of the commodity, are not commonly felt as a tax.

As the merchant must not only be reimbursed, but have profit on all his advance, it follows, that the earlier in trade customs are paid for any commodity, the heavier they must fall on the consumer.

Excise is a tax on commodities in use, and paid by the consumer.

Excise may be rendered a tax, either on the rich or the poor separately, or on both proportionally.

Excise is less burdensome to the consumer, than an equivalent raised in customs; but is more likely to be felt as a grievance, and to create more animosity in the subject against the state.

C H A P. III.

OF POLITICAL LAW^I.

S E C T. I.

Of the Object of Political Law.

WHERE nations have occurred in the preceding parts of these notes, they have been considered only in respect to the history of their establishments, or in respect to the foundations of civil rights, and of civil obligations.

Such rights and obligations are diversified in different instances, by special conventions, which form the political and civil law of the community: But men have original rights and interests to guard, in respect to which actual establishments and conventions may be salutary or pernicious, and give rise to a question, which is now to be discussed, *What is best for mankind, in their political capacities?*

If, in discussing this question, we arrive at any general principles or rules; these may be

^I See Instructions of the Empress of Russia. L'Esprit de Loix, tom. 1.

termed the Political Laws of Nature, and are the objects of this chapter.

To investigate such rules or principles, whether relating to men in general, or relating to men in particular circumstances, is to ascertain not *what men actually have done*, but *what they ought to do*; and is therefore properly introduced in this place as a branch of moral science.

S E C T. II.

Of the first Principles of the Political Law of Nature.

IT is a self-evident proposition, that political institutions are beneficial in proportion as they contribute to the safety and happiness of the people.

This principle, therefore, may be safely assumed as a first principle of political law.

In applying it, we must consider,

1. Who are the people.
2. In what their safety consists.
3. In what their political happiness consists.

S E C T. III.

Of the People.

U N D E R this denomination we are to conceive not any separate order or class of men; but all the members of the community, whether magistrate or subject, or in whatever way distinguished, in the casual distribution of condition or rank.

Of the Safety of the People in general.

T H E safety of the people consists in the secure enjoyment of their rights.

That the rights of men may be secure, it is necessary, either that there should be no one to invade, or that there should be a sufficient power to defend.

The first is not to be expected in human affairs; the second is the principal object of political establishments.

It has been the object, or the fortune, of some communities, to possess members who might be intrusted with any powers.

It has been the object of other communities, to grant such powers only as might be intrusted with any men.

These several cases, real or supposed, may be entitled, The government of *Innocence*, of *Virtue*, and of *Law*.

Under the supposed government of innocence, or of virtue, matters of form are easily adjusted.

Under the government of law, it is necessary, that the rights and obligations of men should be clearly expressed.

This is the object of conventional law.

In every convention is supposed the consent of parties given in person, or by others properly authorized.

The sovereign is authorized to enact laws.

Laws relate to the constitution, to civil rights, or to crimes.

The most perfect laws relating to the constitution, are such as confer on the magistrate power to restrain crimes, and to defend the community; but under limitations sufficient to prevent the abuse of this power.

The most perfect laws relating to civil rights, are such as effectually secure every person in his state.

It is the maxim of civil law, That every person should remain in his possession, until a better title be undoubtedly proved.

Laws relating to crimes, prescribe the form of trials, and point out the overt acts for which certain punishments are appointed.

The following are maxims of natural law relating to prosecutions.

1. That every person is to be deemed innocent until he is proved to be guilty.

2. That no one shall be obliged to give evidence that may affect himself.

3. That no one shall be tortured into confessions or discoveries of any sort.

4. That no one shall be punished, unless he shall have committed some action in itself pernicious, or specially declared by the law to be criminal.

5. That it is better the guilty escape, than that the innocent suffer.

6. That the object of punishment be to correct the guilty, and to deter others.

7. That the punishment be not such as would shock humanity, or disorder society more than the crime.

To secure legal rights, it is necessary that the laws should be strictly interpreted and applied.

Under the government of law, discretionary powers are not safely intrusted, except to judges named by the parties; or to juries purged by the challenge of parties, and interested equally to protect the innocent and to punish the guilty.

In the security of rights consists civil and political liberty.

Liberty is opposed to injustice, not to restraint; for liberty cannot subsist without the supposition of every just restraint.

Natural liberty is not impaired, as sometimes supposed, by political institutions, and is impaired only by usurpations and wrongs.

The laws of different communities bestow unequal privileges on their members.

Those are the most salutary laws which distribute the benefits and the burdens of civil society in the most equitable manner. But it is no small measure of liberty to be secured in the possession of what the law bestows.

S E C T. V.

Of the Political Happiness of a People.

TH E political happiness of a people consists in the love of their country, and in that distribution of rank and station which is best suited to their merits and capacities.

Men who are least actuated by separate interests are best disposed to love their country.

Men who have the fewest adventitious distinctions of birth or fortune, are most likely to be classed according to their merits, to be employed suitably to their abilities, and to find the stations in which they are most likely to cultivate their talents, and their virtues.

That a community may be loved in the highest degree, its members should be relieved of personal anxieties and occupied in what relates to the public.

They should be made to consider the state as the equal parent of all, distributing equal benefits, and requiring equal services.

Wherever the state confines political consideration to a particular order, who sacrifice

the rights of others to their own interest or fancy, it cannot be loved.

The reason and the heart of man are best cultivated in arduous situations, and in the exercise of public duties.

S E C T. VI.

Of the Preferable Institution or Form of Government.

NOTWITHSTANDING what we may conceive, in general, as desirable for mankind, every political question must have a reference to some particular case, and must be determined according to the circumstances of that case.

Men of speculation have in vain endeavoured to fix a model of government equally adapted to all mankind.

One people is unfit to govern, or to be governed, in the same manner with another.

Nations differ in respect to character, and in respect to their state or condition.

The character of a people refers to their degree of virtue, or of other principle, on which the state may rely for the discharge of civil and political duties.

The state or condition of a people is determined chiefly by their casual subordinations, and by the extent of their country.

Casual subordination is founded in distinctions, original or adventitious.

Original distinctions are, the differences of capacity, disposition, and force.

Adventitious distinctions arise from fortune and birth.

Questions relating to the propriety of any political institution, can be solved only hypothetically.

Such questions may be put on four different suppositions.

FIRST SUPPOSITION.

The supposition of a people perfectly virtuous, distinguished from one another only by their original differences, and forming states of small extent.

Such a people are fitted to govern themselves.

They may consent to be governed by the majority of their own number, or occasionally by single men; but to oblige such men by force to resign the sense of their own minds, and to follow what is different from it, were, by the supposition, to substitute vice for virtue.

Being perfectly virtuous, every one will be willing to bear his share of the public burdens, and will receive, in his turn, that confidence and trust for which he is by his capacity and experience qualified.

They are supposed to have no adventitious distinctions to mar the effect of their personal qualities.

Being of small extent, the whole may be occasionally or periodically assembled.

They need no precaution against the commission of crimes, or the abuses of power.

The sole object of government is, to assemble, and to direct their force for national purposes.

This, however, is a mere supposition; for no entire nation was ever known to be perfectly virtuous.

SECOND SUPPOSITION.

A people in whom the virtuous and the vicious are mixed; who admit adventitious distinctions in different degrees, and form states of various extent.

This is not a mere supposition, it is realized, and the most general description of mankind.

If there be no great separation or distinction of rank and condition;

If virtue greatly prevail over vice;

If the state be of small extent;

Such a people are fit for democracy.

Their numbers admit of being assembled in collective bodies.

Their virtues and their institutions may prevent crimes, and abuses of power.

They may reap the advantages of democracy, in a manner that will more than compensate its inconveniencies.

If such a people be separated into different orders or classes, they are fitted to aristocracy, mixed republic, or mixed monarchy.

If in two classes, one is distinguished from the other by a considerable superiority, they are fit for aristocracy.

Commercial nations of a small extent are, in the result of distinctions that arise from the practice of arts, and the unequal distribution of property, best fitted to aristocratical government, or to mixed republic.

The inferior class, if not greatly debased or corrupted, may have a share in the government, either by a negative on the determination of the aristocracy, or by being intrusted, not with an active part in the government,

but only with the choice of those who are to act for them.

The same supposition applied to states of a greater extent, and to a people among whom a greater variety of rank is established, will justify the preference of mixed monarchy.

It were happy for mankind, if, together with changes of circumstances, they could always make suitable changes in government, and no more.

Where changes of circumstance are gradual, corresponding changes of government take place; but sudden innovations of any sort, precipitate men into situations in which they are not qualified to act.

THIRD SUPPOSITION.

A people on whose vanity, and sense of personal importance, rather than virtue, the state must rely for the discharge of the civil and political duties; a people amongst whom a continual adventitious subordination takes place, without any example, or any desire, of equality.

Such a people are not fit to govern themselves.

The

The continual gradation of rank must terminate in a prince or monarch.

They require monarchy as a bond of union, and as a source of honor.

While every one attends to what concerns himself, the monarch, for the preservation of his own person and dignities, must attend to the public safety, and public order.

The subordinate ranks will court his favor, and consult their own dignity, by actions, either splendid in themselves, or useful to the state, whilst they are serviceable to the king.

The members of the state are drawn together, and moved in a body, not by their love to the community, or to mankind, but by their veneration for their common superior, and by their expectations from their common source of preferment and honor.

The maxims of honor are not susceptible of sudden changes; and the dignities of family though for the most part conferred by the prince, are hereditary, and therefore independent.

Both these circumstances oblige the prince to govern according to fixed and determinate laws.

FOURTH SUPPOSITION.

A people perfectly vicious, without sense of honor, or hereditary distinctions.

Such a people must be restrained by force.

Every constitution, even that which confides most in the virtue of the subject, must employ force to repress crimes.

If the whole people be inclined to commit crimes, and be restrained only by fear, the prospect of prompt and terrifying punishments must be continually placed in their view.

This supposition may be employed as an apology for despotism.

Where every person is disposed to commit crimes, the fewer that have power, so much the better.

When all power is committed to one person, even supposing himself to be a criminal, it is his interest, for the most part, to restrain the crimes of others.

His severities, or cruelties, by the supposition, can no where afflict the innocent.

His dominions, though, like a prison, committed to the keeping of vile and merciless men, is nevertheless the only fit place to receive those who cannot be otherwise restrained from injustice.

But this case, like that which was first stated, of a people perfectly virtuous, is a mere supposition, and never was realized in the character of any people.

Men are generally as far from the extreme of perfect vice, as they are from that of perfect virtue.

They who contend, that despotical government is in fact the best for mankind, proceed upon four suppositions, all equally violent and false.

1. That all men would commit crimes if they durst.

2. That crimes cannot be restrained without discretionary powers.

3. That a person to whom discretionary powers are committed, will employ them to repress the crimes of others, but not to commit crimes of his own.

4. That the sole object of government is, to control the actions, never to cultivate the nature or form the characters of men.

These suppositions are contrary to reason and to experience.

The fact is, that the manners of men are various; and that the same penal laws, and forms of justice, by which a people may be

successfully governed in a virtuous age, will not always be sufficient to restrain them in ages corrupted.

When the criminal passions increase in violence and boldness, it may be necessary to increase the measure of punishments.

When crimes multiply, and criminals are enabled to employ the forms of law as the subterfuges of iniquity, it may be necessary to alter such defective forms: But it never can be necessary to deprive the innocent of all the defences of reason and justice; for the same reason and justice which protect the innocent, may condemn the guilty.

In times of occasional tumult, popular frenzy, or rebellion, it may be necessary to treat those who commit such crimes, not as subjects amenable to the laws, but as enemies, who, by invading the public peace, have deprived every citizen of his safety, and who therefore cannot have the benefit of laws until the public has recovered its security.

Such domestic disorders, like foreign wars, render discretionary power occasionally necessary: But this necessity is only temporary.

For the most part, even in corrupted states, it is as much the interest of the subject as of

the magistrate, to keep the peace, and to repress crimes.

Absolute despotism is an extreme of ideal corruption: Every avoidable approach to it is an usurpation and a national misfortune.

It tends to produce that extremity of vice to which it is supposed to be adapted as a remedy.

The object of despotical government, is not to secure the subject in the possession of his rights, but to make him a property; not to suppress vice, but to suppress the highest and noblest virtues of the heart, public spirit, independence, and courage.

S E C T. VII.

Of the fit Distribution of Trust and Office.

As men of different characters and in different circumstances, require a variety of institutions, so different constitutions of government require or imply a different distribution of trust and office.

In free governments of every denomination, where law is necessary, the law must be enacted, interpreted, and executed. Hence the offices

or functions of state are, legislation, jurisdiction, and execution.

Legislation, under every constitution of government, is the immediate act of the sovereign power, and cannot be delegated without transferring the sovereignty.

This rule does not exclude the concurrence of councils, nor the observance of forms suited to the constitution.

Under democracies, the legislation is exercised by the collective body; but it is not necessary that the collective body should deliberate, as well as decide.

The collective body may name senates, or select councils, to prepare questions of legislation.

They may vary the form of collecting the votes, or of promulgating the law.

They may fix, at discretion, what numbers are required to constitute a legal assembly, and what proportion of those present must concur in a public resolution.

Under aristocracies, the collective body of those who govern, whether by elective or hereditary title, must exercise the legislature.

They may act, notwithstanding, under the same forms and limitations that have been

mentioned as compatible with the sovereignty of the whole people.

Under monarchy, the legislature is exercised by the king.

The king stands in need of councils; and his legislative power may be qualified by the forms of registration, or promulgation, required to give the force of law to his edicts.

In mixed government of any sort, the legislature must be exercised by the concurrence of all the collateral powers.

If a law could be enacted without the concurrence of any single power, that power might be suppressed by the others.

If the supposed collateral powers were to assemble, and decide questions of legislation by the majority, any way defined, the government would cease to be mixed.

The sovereignty of collateral powers is compatible with a variety of forms relating to the proposing and the enacting of laws.

Sovereigns of any denomination, who have suffered courts of justice to follow custom as a rule of decision, are to be understood as having established that custom into law.

Jurisdiction, or the office of judge, is, to interpret the law, and to apply it in particular cases.

This office, under every constitution, should be disjoined from that of legislation.

The sovereign, being accustomed to will, or to command, cannot submit merely to interpret, or to follow a rule.

Particular cases are modified by circumstances that create prejudice, or excite passion.

The sovereign, having no superior, may follow prejudice or passion at discretion.

The sovereign having enacted the law, would, under the influence of special motives, make free to dispense with it.

Popular or numerous assemblies would be swayed by faction.

Princes would be swayed by their passions, and by solicitation.

Two questions may be put relating to judicature:

1. Who ought to judge?

2. Of what numbers are courts of justice best composed?

1. Wherever laws are greatly multiplied, the knowledge of law becomes a profession.

No judgment can be safely given without the counsel of those who are knowing in the law.

The office for which counsel is necessary, is that of pointing out the law, and the whole law, in any particular case.

Persons who are not lawyers by profession, may, in the manner of the judges at Rome, and of the juries in Great Britain, interpret and apply a law which is pointed out to them.

Beside the counsel employed by parties, the public may employ counsel for justice and law. This is the nature of official judges in Great Britain.

Jurisdiction committed entirely to official judges, is attended with the following inconveniencies.

The official judge being a continual magistrate, may entertain the prejudices of the magistrate against the subject.

The peculiar prejudices and partialities of the official judge, if he has any, may be known.

They who enjoy his favor, are tempted to trespass in hopes of impunity, or to commence vexatious suits in hopes of success.

They who apprehend his displeasure, do not feel themselves secure even in possession of innocence.

These inconveniencies are removed, in a great measure, by the establishment of judicatures in the Roman form, or in that of juries.

The juryman is equally interested to protect the innocent, and to condemn the guilty.

Juries may therefore be intrusted with some measures of discretionary power, to mitigate the rigors of law, or to supply its defects.

Where a people are divided into a number of separate orders and classes, as those of Patrician, Equestrian, and Plebeian, Lords and Commons, the rights of one order are not safely intrusted to the judgment of another; and it would be expedient, that every party were judged by his peers.

2. Under popular or republican governments of any sort, courts of justice are best composed of few members.

Courts composed of many members carry popular faction and party into the judgment-seat. The individual hopes to screen himself even in judging falsely, under the authority and credit of the whole body.

No one is accountable; no one is conspicuous; all are tempted to humor their party, and to judge at discretion.

Under monarchy, courts of justice are best composed of many.

Here the influence of the crown is more to be dreaded, than the faction of the people.

This influence can less overawe or corrupt numerous bodies, than single men, or a few.

Numerous bodies, in their deliberations, admit of the zeal and ardor that animate popular assemblies; and even whilst they do not judge more impartially than single men would do, they judge with more independence.

The spirit of faction, which in republics is the greatest corruption, in monarchy tends to prevent a greater fervility to those in power.

The office of the executive is, to apply the force of the state for national purposes:

1. To give effect to the laws.
2. To defend the community against foreign enemies.

Occasions on which the executive must be exerted, are either continual or casual; and in case of danger from abroad, require secrecy and despatch.

The sovereign in republican governments, consisting of the whole people, or of numerous bodies, cannot exercise the executive.

Such bodies cannot be continually assembled, nor ready to assemble at all times.

The resolutions of the executive require more secrecy and despatch than can be had in any numerous or popular assemblies.

Affairs that come in course, or that admit of delay, may be committed to senates, or to select councils. Such are the management of public revenue, negotiations, and treaties.

Affairs that may come fortuitously, and by surprise; that will not admit of delay, must be committed to single men; as to the magistrate, or officer who has the keeping of the peace, and the leading of armies.

Under monarchy, whether pure or mixed, the king is capable of every branch of the executive.

But he ought to delegate whatever tends to render his power terrible or odious;

To reserve what renders it an object of respect or affection.

The abuses of the executive power are variously restrained under different constitutions.

In republics, they are restrained by the short duration of office in the person of any individual, by the vigilance and emulation of his competitors, if not by his own virtue and moderation.

Those were the happiest republics, who educated virtuous citizens, to whom any powers might be safely intrusted.

Some of the most important powers, both in Sparta and at Rome, were discretionary.

In monarchy, the abuses of the executive are restrained by the forms of law, and by the privileges of subordinate ranks.

In all constitutions they may be restrained by having magistrates and ministers accountable.

By the integrity of those who constitute the force committed to the direction of the executive.

When the armed force is part of the people, it is their interest, as well as their duty, to refrain from abuse.

S E C T. V I I I .

Conclusion.

IT may appear from a comparifon of the fact, as ftated in the hiftory of the fpecies, with what is now ftated as the law of political expedience, that men generally accommodate their eftablifhments to their circumftances, and that, upon the fuppofition of fuch circumftances, there is little room for improvement.

Men of probity and courage, in fmall communities, have recourfe to Republican government.

Men diftinguifhed by inequalities of birth, and actuated by fentiments of honor, have ranged under monarchs.

Large empires continue to be governed, as they are formed, by force.

Mixed defcriptions of men, led by the variety of circumftances in which they are placed, have exhibited a correfponding variety of mixed governments. And the iffue in every cafe has been fuch, that where we cannot

materially change the character and circumstances of the people, it would be folly to attempt any radical change in the form of government.

In speculation, we form general views and look into distant consequences; but the first maxim of sound speculation is, where matters go tolerably well, to beware of change.

If therefore it be supposed, that an itch of political reformation is dangerous to mankind, it is not supported by knowledge.

The ignorant are as apt to tamper with the best constitution, as to reform the worst. In general, they are tenacious of custom: but in some particulars are desirous of change.

The genius of mankind leads to progression. Every order of men, and every individual, apprehend an inconvenience which they would remove, or an advantage they would gain, and they would break through every form to attain their end.

Arts, commerce, population, as they advance or decline, give rise to new circumstances, and suggest successive arrangements.

The people under the pressure of great inconveniences, break out into revolts and effect

great revolutions; under the preffure of the least inconvenience they seek for proportional relief, and in the procefs of time, by small alterations, produce a material and fenfible effect.

In this current, we may wish to accelerate, retard, or direct the motion, but it is the nature of man to proceed. In fteering our courfe, it is material to know the tendency of changes, whether the effect is to be near or remote.

In every political deliberation, it is material to know what is beft for mankind, that we may depart from it as little as poffible.

A well informed underftanding, in the worft fituations, may fecure fome happy effects, though far fhort of the ideal perfection which the fpeculative are apt to look for in the affairs of men.

Political interefts, are thofe of all others which ought leaft to be committed to chance. Our fafety, our peace, our relation one to another, our improvement or degeneracy, depend in a great meafure on our political intitutions. By thefe our rights are preferved

OR

or violated, our relation is made to approach to that of equals, or to that of master and slave, crimes are repressed or licensed.

Political institutions tend to augment the good or the evil with which they are fraught.

Human affairs, in some instances, tend to improvement; in others, to corruption.

The institutions of men, in one case, promote their improvement; in the other, hasten their corruption.

Institutions that proceed on maxims of justice, that engage the minds of citizens in public duties, that teach them to estimate rank by the measure of personal qualities, tend to preserve and to cultivate virtue.

On the contrary, institutions by which men are stripped of their rights, or by which they are made to hold their possessions as discretion, under which they are supposed governable only by force, or by the fear of punishment, tend to beget tyranny and insolence in the powerful, servility and vileness in the dependent; to *cover every visage with paleness*², and to fill every heart with jealousy or dejection.

² Vid. L'Esprit des Loix, liv. 6. c. 5.

The greatest and most extensive benefit which the wise can procure, is the establishment or preservation of just institutions.

The greatest injury that wicked men can commit, is the overthrow or corruption of such institutions.

T H E E N D.



Ferguson, Adam,

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